



## **GIBSON ENERGY PARTNERSHIP**

### **Rules and Regulations Governing the Use of the Gibson Hardisty Terminal and the Gibson Pipelines**

#### **GENERAL APPLICATION**

These Rules and Regulations apply to and govern the use of the Gibson Facilities, which include the Gibson Provost Pipeline System, the Gibson Bellshill Lake Pipeline System and the Gibson Hardisty Terminal, for the transportation and terminalling of Crude Petroleum, and any goods and services ancillary thereto provided by Gibson, from and after the effective date set out below. By Tendering Crude Petroleum to a Gibson Facility and/or by delivering a Notice of Shipment to Gibson, a party accepts these Rules and Regulations as legally binding on the terms contained herein, as such terms may be amended from time to time by Gibson. In the event of a conflict between the provisions of these Rules and Regulations and any individual Toll Schedule or specific written agreement with a party, the provisions of the individual Toll Schedule or the specific written agreement will take precedence.

#### **TARIFF NO. 100**

Replaces all previously issued Rules and Regulations applying to the Gibson Provost Pipeline System, the Gibson Bellshill Lake Pipeline System and the Gibson Hardisty Terminal.

**ISSUED: December 13, 2004**

**EFFECTIVE: January 1, 2005**

**ISSUED BY: A. S. (Stew) Hanlon, Vice-President,  
Oil Operations and Business Development**

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# RULES AND REGULATIONS

## 1. DEFINITIONS

The following definitions shall apply in these Rules and Regulations and to the schedules attached hereto:

"API, ASTM and MPMS" mean American Petroleum Institute, American Society for Testing Materials and API Manual of Petroleum Measurement Standards, respectively.

"Business Day" means any day other than a Saturday, Sunday or statutory holiday in the Province of Alberta.

"COLC" means the Crude Oil Logistics Committee.

"Crude Petroleum" means the liquid hydrocarbon product of oil or gas wells, oilsands plants or the liquid hydrocarbon product derived from the processing of gas, or a mixture of such liquids, and includes natural gasoline, and pentanes plus or mixtures thereof.

"Crude Petroleum Specifications" means the specifications of Crude Petroleum stated in Section 7 of these Rules and Regulations and as further detailed in Schedule 1 attached hereto, all as may be revised from time to time by Gibson.

"Cubic Metre" means a cubic metre of Crude Petroleum at a temperature of 15° Celsius and at a pressure of 0 kPa gauge.

"Delivery Point" means the locations on the Gibson Facilities at which Gibson on behalf of Shippers delivers Crude Petroleum to a downstream pipeline, terminal or other facility.

"Diluent" means any hydrocarbon or mixture of hydrocarbons that when blended with Crude Petroleum will result in a reduction of the density and/or viscosity of the resulting blend. Diluent shall also include drag reducing agents if such agents are utilized by Gibson to increase the capacity of the Gibson Facilities.

"Financial Assurances" shall have the meaning defined in subsection 27(b).

"Force Majeure" shall have the meaning defined in subsection 25(b).

"Gibson" means Gibson Energy Partnership.

"Gibson Facilities" means the Gibson Hardisty Terminal and/or the Gibson Pipelines, as the context requires.

"Gibson Hardisty Terminal" means the Crude Petroleum and Diluent receipt, blending, storage and delivering facilities, owned by Gibson Energy Ltd. and operated by Gibson, located at LSD 4 of Section 29-042-09-W4M near Hardisty, Alberta.

"Gibson Pipelines" means the Provost Pipeline System and Bellshill Lake Pipeline System, each owned by Gibson Energy Ltd. and operated by Gibson, which transport Crude Petroleum from various Receipt Points to the Gibson Hardisty Terminal.

"LACT Equipment" means lease automatic custody transfer equipment located at each Receipt Point to the Gibson Pipelines which is used to measure the volume and Quality of Crude Petroleum for transfer of custody of the Tendered Crude Petroleum from the owner or operator of the production facility to Gibson.

"Measurement Equipment" has the meaning defined in section 8(a).

"Non-Specification Crude Petroleum" means Crude Petroleum which does not meet the Crude Petroleum Specifications.

"Notice of Shipment" has the meaning defined in section 3(b).

"Quality", and any derivative thereof, means the characteristics set out in the Crude Petroleum Specifications of the Crude Petroleum Tendered to the Gibson Facilities as determined by Gibson or a Gibson-recognized third party laboratory.

"Quality Certificate" means a certificate of analysis from a Gibson-recognized third party laboratory showing at a minimum, unless otherwise specified by Gibson, the density, sulphur content, vapour pressure, sediment & water content and viscosity (viscosity at a minimum of two temperatures), of the Crude Petroleum Tendered or to be Tendered to the Gibson Facilities, which analysis shall be conducted in accordance with the standards set out in the Crude Petroleum Specifications or if no standard is specified, as specified by Gibson.

"Receipt Point" means a location on the Gibson Facilities where facilities have been provided to permit a Shipper to Tender Crude Petroleum.

"Shipper" means a party who provides a Notice of Shipment and/or Tenders Crude Petroleum, or on whose behalf Crude Petroleum is Tendered, to the Gibson Facilities or a party to whom ownership of Crude Petroleum is transferred in the Gibson Facilities or a party to whom Crude Petroleum is consigned for delivery at a Delivery Point and shall include, where the context so requires, the owner or operator of the facility from which Crude Petroleum will be Tendered to a Receipt Point.

"Shipper's Balance Report" has the meaning defined in section 9(b).

"Tender", and any derivative thereof, means the delivery of Crude Petroleum to Gibson at a Receipt Point for transportation on the Gibson Facilities from the Receipt Point to one or more Delivery Points.

"Toll Schedule" means the schedules of tolls, fees, charges and deductions published by Gibson from time to time.

"Weathered" means Crude Petroleum which when left in a container open to atmospheric conditions for a period of at least 24 hours does not experience a change in volume greater than 0.2% or density greater than 2 kg/m<sup>3</sup>, other than those changes attributable to a change in the temperature of such Crude Petroleum.

"Working Stock" means the Crude Petroleum and Diluent volumes required, as determined from time to time by Gibson; i) to fill the Gibson Pipelines and the piping associated with the Gibson Hardisty Terminal and, ii) to provide the inventory for operating and scheduling purposes in the tanks associated with the Gibson Pipelines and the Gibson Hardisty Terminal.

## **2. COMMODITY**

These Rules and Regulations cover transportation and terminalling of Crude Petroleum and Diluent in the Gibson Facilities and no other commodity will be accepted unless specifically approved in advance and in writing by Gibson.

## **3. TENDERS AND FORECASTS**

- (a) Unless otherwise specified, Gibson will operate the Gibson Facilities under the forecasting, nomination and reporting procedures as set out by the COLC, as revised from time to time.
- (b) Crude Petroleum Tendered to the Gibson Facilities shall be nominated by Shipper on a properly executed notice of shipment (the "Notice of Shipment"), submitted by Shipper, indicating the applicable Receipt Points, transfers, Delivery Points and the amount of Crude Petroleum forecast to be Tendered to the Gibson Facilities and any other information as may be required by Gibson from time to time. A separate Notice of Shipment shall be submitted for each calendar month in accordance with procedures set forth by the COLC, from time to time. Shipper agrees that Gibson may rely upon the Notice of Shipment in operation of the Gibson Facilities and may supply such Notice of Shipment to any party: (i) nominating transportation for the quantities to which the Notice of Shipment pertains on the immediately downstream pipeline, terminal or other facility; or (ii) purchasing the quantities to which the Notice of Shipment pertains.
- (c) Gibson may refuse to accept Crude Petroleum unless satisfactory evidence is furnished that Shipper has made provisions for prompt delivery thereof to a Delivery Point or for storage pursuant to Section 15.
- (d) Gibson reserves the right to restrict Tenders or deliveries based on weekly projections (Shipper Position Report), issued by Gibson, to balance a Shipper's inventory position to its proportionate share of Working Stock plus any storage volumes pursuant to Section 15 and to coordinate deliveries with the schedules of the immediately downstream pipeline, terminal or other facility.
- (e) In the event that Gibson relies on the Notice of Shipment or provides such Notice of Shipment to any person as provided for in subsection 3(b), and Shipper fails to meet the Notice of Shipment (other than as a result of a valid event of Force Majeure hereunder), or fails to give notice to Gibson of an event of Force Majeure as required, hereunder, in addition to and without limiting any other remedies of rights Gibson may have hereunder or at law for such failure to Tender, Shipper shall indemnify and hold Gibson harmless from and against all liability, damages, suits, charges, penalties, costs or expenses which Gibson may incur or be liable to any person, including loss to Gibson itself, whether directly or by contractual assumption or indemnification as a result of Shipper's failure to Tender the Crude Petroleum in accordance with the Notice of Shipment or the failure to give notice to Gibson of an event of Force Majeure as required hereunder.

- (f) Shipper shall endeavor to Tender Crude Petroleum to Receipt Points in equal daily quantities. At Receipt Points on the Gibson Pipelines, Gibson will normally accept Tenders on a ratable daily basis at an hourly flow rate as may be set or specified from time to time by Gibson. Shipper shall endeavor to Tender Crude Petroleum at a consistent Quality.
- (g) If Gibson changes its equipment or standard operating practices due to inconsistent Quality, or a change from the historical average Quality, of Tendered Crude Petroleum, the costs arising from such changes shall be borne by Shipper.
- (h) Gibson shall not be required to accept Crude Petroleum Tendered to the Gibson Pipelines in quantities of less than the quantities specified in a Toll Schedule, as may be revised from time to time by Gibson, unless the Shipper has entered into an agreement with Gibson allowing Tenders less than the specified quantities.

#### **4. APPLICATION OF TOLLS**

Crude Petroleum Tendered for transportation or terminalling shall be subject to the tolls in effect on the date of Tender to the Gibson Facilities irrespective of the date of nomination or delivery to the immediately downstream pipeline, terminal or other facility. The tolls charged to a Shipper shall be allocated as to the quantity and types of Crude Petroleum Tendered in accordance with the applicable Toll Schedule.

#### **5. APPORTIONMENT OF CAPACITY**

If Crude Petroleum is Tendered to the Gibson Facilities in amounts beyond the available capacity of the Gibson Facilities or applicable immediately downstream pipeline, terminal or other facility or in amounts which would lead to an accumulation of excessive Working Stock, Gibson may suspend or apportion acceptance of Crude Petroleum while such conditions exist without any claim for damages against Gibson. Gibson may also suspend or apportion acceptance of Crude Petroleum without any claim for damages against Gibson if Gibson is restricted in any way from receiving Crude Petroleum into the Gibson Facilities; or if Gibson is restricted in any way in delivering Crude Petroleum to the applicable immediately downstream pipeline, terminal or other facility. Gibson's determination of apportionment of the available capacity among Shippers shall be final. Gibson, at any time, does not guarantee shipment of any Crude Petroleum from a Shipper's facilities and is not responsible in any way for alternate transportation of Crude Petroleum during periods of suspension or apportionment.

#### **6. FACILITIES and ACCESS**

- (a) Gibson will receive Crude Petroleum and Diluent only at the Gibson Hardisty Terminal or at established Receipt Points on the Gibson Pipelines and only when Shipper arranges

for or provides facilities at those Receipt Points satisfactory to Gibson. Upon request Gibson will identify the established Receipt Points.

- (b) At Receipt Points on the Gibson Pipelines, Shipper shall arrange for or provide and maintain sufficient tankage for a minimum of 24 hours of average Crude Petroleum production or otherwise as determined by Gibson. Lines shall be provided and maintained from the tanks to the tank firewall and shall be a minimum of 219.0 millimeters in diameter or larger if stipulated by Gibson. The tank nozzle and all valves on the line shall be full opening and of a size at least equal to the line size; the nozzles must be installed a minimum of 1,000 millimeters above the tank floor all valves on the tanks must be provided with equipment to allow sealing and there shall be no branch connections on the line between the tankage and Gibson's connection to the line outside the firewall. The tanks shall also contain a 76.2 millimeter nozzle located 1,000 millimeters above the tank floor and suitable for the installation of a hydrostatic tank level transmitter. The tanks must be provided with a proper stairway and walkway and these must be maintained to current safety standards. All tanks from which shipments are Tendered must be equipped with appropriately sized thief hatch. The minimum size of tank from which shipments will be accepted is 80 cubic meters.
- (c) Shipper hereby grants to Gibson the right to install and maintain pipelines, piping manifolds, LACT Equipment, pumping equipment, control equipment and power service facilities upon and across surface lands held by Shipper in connection with the production of the Crude Petroleum Tendered for transportation hereunder.
- (d) Shipper shall provide and maintain all weather access roads to the LACT Equipment and Gibson shall be allowed full and free use of roads built and/or owned by Shipper when in Gibson's opinion their use is required for access to and the operation or maintenance of the Gibson Pipelines.
- (e) Gibson shall have the right to enter upon the premises and facilities of the Shipper at the Receipt Point and shall have access to any and all tanks, storage receptacles, meters or other production or storage equipment or facilities for the purpose of inspection, measurement, testing, installing, operating, or maintaining any equipment or facilities in connection with the Gibson Pipelines or LACT Equipment.
- (f) Shipper shall require the owner or operator of a facility from which Crude Petroleum is Tendered to give Gibson sufficient notice in advance of any changes to such facilities or the operation thereof which will cause or have a reasonable probability of causing a material change in the quantity or Quality of the Crude Petroleum Tendered from such facility. For the purposes of this subsection, "material change" shall mean a change that may or will affect the accuracy of quantity or Quality measurement, the density or sulphur parameters used in calculating the equalization adjustment, the quantity of Diluent used for blending the Tendered Crude Petroleum, the capacity or continued suitability of the current Receipt Point facilities and the integrity of the Gibson Facilities or the continued safe and reliable operation thereof. In the event that no notice or insufficient notice is given, Gibson may limit or refuse Tenders of Crude Petroleum until Gibson has determined that the material change will have no adverse impact or until mitigating measures have been agreed to between Gibson and Shipper.

## **7. CRUDE PETROLEUM SPECIFICATIONS**

Gibson reserves the right to refuse to accept any Crude Petroleum which does not meet the Crude Petroleum Specifications. The Crude Petroleum Specifications shall be as set out in these Rules and Regulations and the schedules attached hereto, which Crude Petroleum Specifications Gibson reserves the right to change from time to time upon notice to Shippers. Crude Petroleum Tendered to the Gibson Facilities shall be marketable, clean, Weathered, settled and free of foreign material. It shall not contain hydrogen sulphides, organisms, gases, waxes, impurities or any other contaminants with physical, chemical or biological characteristics, or in such quantities, that may cause disadvantage to Gibson or be of a nature which adversely affects the quantity or Quality measurement of the Crude Petroleum or the ability of the Crude Petroleum to be transported in the Gibson Facilities or be objectionable to governmental authorities having jurisdiction over the Gibson Facilities or the immediately downstream pipeline, terminal or other facility. Furthermore:

- (a) Shipper represents and warrants to and in favour of Gibson and each of Gibson's other Shippers that all Crude Petroleum Tendered to the Gibson Facilities by or on behalf of Shipper will meet or exceed the Crude Petroleum Specifications. When Shipper becomes aware that Non-Specification Crude Petroleum has been Tendered it shall promptly cease such further Tenders and advise Gibson that such Tenders have occurred. Shipper shall indemnify and hold Gibson and each of Gibson's other Shippers harmless from and against all liability, loss, damage, destruction, costs, claims, charges, levies, expenses, penalties or harm (including, without limitation, contractually assumed liability; damage to or loss of Quality of Crude Petroleum owned or controlled by Gibson or Gibson's other Shippers; operator call out costs; or biocide injection costs) which occurs or arises out of any Crude Petroleum Tendered to the Gibson Facilities by or on behalf of Shipper failing to meet the Crude Petroleum Specifications.
- (b) Prior to the first Tendering of Crude Petroleum to the Gibson Facilities Shipper shall supply a current and representative Quality Certificate of the Crude Petroleum. Thereafter Gibson may, but shall have no obligation to, require Shipper to provide a current and representative Quality Certificate for the Crude Petroleum Tendered or to be Tendered to the Gibson Facilities by or on behalf of Shipper.
- (c) Gibson shall be entitled to rely upon Shipper's and each of Gibson's other Shippers' representations, warranties and indemnities in subsection 7(a) as to the Quality of the Crude Petroleum Tendered to the Gibson Facilities by or on behalf of Shipper or Gibson's other Shippers, without any investigation, inquiry, sampling or testing of the Crude Petroleum by Gibson. Shipper hereby waives all claims, rights, actions and damages which Shipper now has, or may hereafter have against Gibson for any liability, damage, destruction, loss of Quality or harm suffered by Shipper which occurs or arises out of Gibson's acceptance in the Gibson Facilities of any Non-Specification Crude Petroleum from Gibson's other Shippers, including without limitation, contractually assumed liability and damage to or loss of Quality of Crude Petroleum owned or controlled by Shipper, and Shipper agrees not to pursue Gibson for any such harm it may suffer.

- (d) Shipper recognizes and agrees that it is not always practical for Gibson to test Crude Petroleum prior to Gibson's acceptance of Crude Petroleum into the Gibson Facilities and that samples of the Crude Petroleum may be taken by Gibson and may be tested after acceptance. Except as provided in Section 8, Gibson assumes no responsibility to conduct any sampling or otherwise monitor the Quality of Crude Petroleum accepted into the Gibson Facilities. Shipper agrees that Gibson shall be entitled to use the results of any Quality testing conducted by Gibson, conducted on its behalf or provided to it by a third party in determining any action allowed or provided for under these Rules and Regulations that are dependant on the Quality of the Tendered Crude Petroleum.
- (e) Upon Gibson becoming aware of any Non-Specification Crude Petroleum in the Gibson Facilities that when commingled in the Gibson Facilities with Crude Petroleum meeting the Crude Petroleum Specifications would be objectionable to the immediately downstream pipeline, terminal or other facility, Gibson shall consult with the Shipper who Tendered the Non-Specification Crude Petroleum and each of Gibson's other Shippers whose Crude Petroleum has been commingled with the Non-Specification Crude Petroleum concerning the timing of dealing with and the disposition of such Non-Specification Crude Petroleum as well as any Crude Petroleum which has been commingled with Non-Specification Crude Petroleum. Gibson shall have the final decision as to the ultimate disposition of any Non-Specification Crude Petroleum as well as any Crude Petroleum which has been commingled with Non-Specification Crude Petroleum in the Gibson Facilities. Gibson may require payment of additional charges for the terminalling, storage, handling and disposal of Non-Specification Crude Petroleum as well as any Crude Petroleum which has been commingled with Non-Specification Crude Petroleum. Shippers owning or controlling such Non-Specification Crude Petroleum shall be responsible for payment to Gibson of such additional charges that may be payable for the Non-Specification Crude Petroleum as well as the Crude Petroleum with which it has been commingled.

## **8. MEASUREMENT, TESTING AND DEDUCTIONS**

All measurement, testing, calculation and reporting of Crude Petroleum quantities and Qualities will at a minimum be performed in accordance with the requirements of governmental authorities having jurisdiction over the Gibson Facilities and in accordance with these Rules and Regulations, including Schedule 1.

- (a) The quantity of Crude Petroleum Tendered to a Receipt point may be determined by metering, tank gauging or weigh scales ("Measurement Equipment", which shall also include if applicable, LACT Equipment and any additional equipment associated with quantity or Quality determination). If Gibson operates the Measurement Equipment, Gibson will carry out calibration of the Measurement Equipment. If Gibson does not operate the Measurement Equipment: i) Gibson shall be given sufficient notice by the operator prior to any calibration or change to the Measurement Equipment, ii) Gibson may require that the operation or calibration of the Measurement Equipment be verified and iii) Gibson shall be entitled to have its representative present during such calibration, change or verification. If tank gauges are used, quantities shall be computed from correctly compiled tank tables on a 100% volume basis. Regardless of the method of quantity measurement, the quantity or Quality of the Crude Petroleum Tendered may be

determined by Gibson and at Gibson's sole discretion it may apply the results of its determination. Shipper may be present or represented during calibration or measurement performed by Gibson. The results of such calibration or measuring by Gibson shall be final.

- (b) In the event that the Tendered Crude Petroleum is found to be Non-Specification Crude Petroleum, in addition to other remedies contained in these Rules and Regulations Gibson shall be entitled to deduct the penalty adjustments specified in Schedule 1.
- (c) The measured Crude Petroleum quantity will be corrected from the temperature and pressure at which it was measured to 15° Celsius and 0 kPag or equilibrium pressure, as applicable, using the applicable MPMS procedures. The corrected quantity of Crude Petroleum shall be further adjusted by the meter calibration factor, if applicable, and then the quantity of sediment & water shall be deducted and any additional applicable penalties, adjustments and deductions shall be determined using the adjusted corrected quantity.
- (d) The density of the Crude Petroleum Tendered into the Gibson Facilities shall be determined in accordance with one or more of the procedures listed in Schedule 1 and the observed density shall be corrected to 15° Celsius using the applicable MPMS procedures.
- (e) Gibson shall have the right to make adjustments to the measured quantity of Crude Petroleum for losses that may result from accepting Tenders; i) that have not been fully Weathered, or ii) that consist of mixtures of different Crude Petroleums which may not have been fully blended prior to Tendering. Such deductions shall be determined and applied at Gibson's sole discretion.
- (f) Gibson may, at its sole discretion, determine and apply an adjustment to the measured quantity of Crude Petroleum Tendered or delivered if the temperature, density, viscosity or any other characteristic of the Crude Petroleum Tendered or delivered has changed or fluctuated, during the period of time covered by a custody transfer ticket, to such an extent as to materially affect the accuracy of quantity measurement.
- (g) In addition to the foregoing adjustments, Gibson shall have the right to implement a loss allowance deduction or charge, at a rate to be specified from time to time in the Toll Schedule.

## **9. EVIDENCE OF RECEIPTS AND DELIVERIES**

- (a) Tenders of Crude Petroleum accepted by Gibson into the Gibson Facilities and deliveries of Crude Petroleum to Delivery Points shall be sufficiently evidenced by tickets, computer printouts or computer data, which shall be verified by a representative of Gibson showing the date, source facility, quantity, density, sediment & water content, temperatures, corrections, adjustments and deductions.
- (b) Gibson shall account to each Shipper for each month for the volume of Crude Petroleum Tendered for its account by generating a report of Shipper's opening inventory, Tenders,

transfers, deliveries, corrections, adjustments, deductions, Diluent allocation, required Working Stock and closing inventory ("Shipper's Balance Report").

- (c) If any error or omission shall occur in a Shipper's Balance Report or other report issued by Gibson, Gibson shall use all commercially reasonable efforts to correct and reissue the Shipper's Balance Report or other report within three (3) Business Days following notification by Shipper, or realization by Gibson, that an error or omission has occurred. Gibson shall use all commercially reasonable efforts to advise all affected parties of the required revisions as soon as practical. Revisions that are not shown for the current month will be shown in the Shipper's Balance Report or other report for the next following month.

## **10. COMMON STREAMS**

- (a) Gibson may handle common streams of Crude Petroleum in the Gibson Facilities which common streams shall be designated, from time to time, by Gibson. Gibson shall designate the Quality range of each common stream from time to time.
- (b) The acceptance of any Crude Petroleum in the Gibson Facilities shall be on the condition that such Crude Petroleum shall be subject to such changes in Quality, quantity and value as may result from its mixture while in the common stream designated by Gibson.
- (c) Gibson shall be under no obligation to make delivery of the identical Crude Petroleum received from Shipper, and shall make delivery only out of the common stream designated by Gibson.

## **11. DILUENT and BLENDING**

- (a) To the extent Gibson deems that it is necessary to do so, at Gibson's sole discretion, Gibson will blend the Tendered Crude Petroleum with Diluent for transportation and terminalling on the Gibson Facilities and to meet the density or viscosity requirements at the Delivery Point to the immediately downstream pipeline, terminal or other facility, or to meet such other specifications as may be requested by Shipper and agreed to by Gibson. The amount and type of Diluent used by Gibson for blending with Shipper's Crude Petroleum shall at all times be in Gibson's sole discretion. Gibson may blend and commingle Shipper's Crude Petroleum and Diluent at one or more locations of Gibson's choosing in its sole discretion.
- (b) Gibson will use commercially reasonable efforts to obtain sufficient quantities of Diluent for blending but if an insufficient quantity of Diluent is available to blend all Shippers' Tendered Crude Petroleum, Gibson may suspend or restrict Tenders in accordance with the applicable provisions of Section 5. Gibson will charge Shipper and Shipper shall pay Gibson for the quantity of Diluent used to blend Shipper's Crude Petroleum, based on the volume and density, determined pursuant to Section 8, of the Crude Petroleum

Tendered by the Shipper each month at the prices posted by Gibson for Diluent in the month. Gibson may charge a fee for blending Crude Petroleum at rates specified by Gibson from time to time in a Toll Schedule.

- (c) Gibson shall also be entitled to charge the applicable Shipper(s) and such Shipper(s) shall pay Gibson for additional costs and losses arising from shortfalls or surpluses in Diluent volumes arising from revisions of Notices of Shipment quantities after the first deadline for submission thereof and from material shifts in the Quality of Tendered Crude Petroleum compared to recent historical average Qualities or forecast Qualities, as applicable.
- (d) Gibson will charge Shipper and Shipper shall pay Gibson, at rates determined and specified by Gibson from time to time, for the volumetric shrinkage that occurs when Crude Petroleum and Diluent are blended. The method to be used for calculating the quantity of blending shrinkage shall be the applicable method specified in Schedule 1.

## **12. INTRATERMINAL TRANSFERS**

Intraterminal transfers of Crude Petroleum in the Gibson Hardisty Terminal may be allowed at Gibson's discretion; provided that, the Shipper on whose behalf the Crude Petroleum was Tendered shall be responsible for the payment of all charges (including but not limited to equalization adjustments, shrinkage of volumes, Diluent allocation, corrections, adjustments and deductions), provision of Working Stock, indemnities and other obligations in respect of the Crude Petroleum prior to the transfer, and the successor Shipper shall be responsible for the payment of all charges (including but not limited to equalization adjustments, shrinkage of volumes, Diluent allocation, corrections, adjustments and deductions), provision of Working Stock, indemnities and other obligations in respect of the Crude Petroleum subsequent to the transfer. Gibson shall not be obligated to recognize any intraterminal transfer unless it receives a transfer request, in writing, from both the Shipper on whose behalf the Crude Petroleum was Tendered and the successor Shipper within one (1) Business Day of the initial transfer request. The transfer requests shall indicate the party to which the transfer is to be made, the quantity of Crude Petroleum to be transferred, its location and any other information as may be specified by Gibson, from time to time. Notwithstanding the foregoing, Gibson may refuse to accept a transfer request unless: i) Gibson is satisfied the successor Shipper has the capacity to perform any financial obligations which arise from the transportation and handling of the Crude Petroleum or the successor Shipper provides Gibson satisfactory Financial Assurances; ii) Gibson is provided satisfactory evidence of the transfer of the Crude Petroleum to another Shipper and that such transfer has been accepted by the successor Shipper; and, iii) satisfactory evidence is furnished by the successor Shipper that it has made provision for prompt delivery of the Crude Petroleum at a Delivery Point or arrangements satisfactory to Gibson have been made for the storage of the Crude Petroleum pursuant to Section 15. Gibson may charge fees for intraterminal transfers as specified from time to time on the applicable Toll Schedule.

## **13. INTERTERMINAL TRANSFERS**

Interterminal transfers of Crude Petroleum involving the Gibson Hardisty Terminal may be allowed at Gibson's discretion; provided that, Shipper will be responsible for the payment of all charges (including but not limited to equalization adjustments, shrinkage of volumes, Diluent allocation, corrections, adjustments and deductions), provision of Working Stock, indemnities and other obligations in respect of the Crude Petroleum while in the Gibson Hardisty Terminal. Gibson shall not be obligated to accept any interterminal transfer unless it receives a transfer request, in writing, from Shipper before the transfer as well as written approval of the transfer from the other terminal involved in the transfer. The transfer request shall indicate the initiating and receipt terminal between which the transfer is to be made, the stream and quantity of Crude Petroleum to be transferred, its location and any other information as may be specified by Gibson, from time to time. Notwithstanding the foregoing, Gibson may refuse to accept a transfer request unless satisfactory evidence is furnished that Shipper has made provision for prompt delivery thereof at the applicable Delivery Point. Gibson may charge fees for interterminal transfers.

#### **14. WORKING STOCK**

As a condition precedent to accepting Tenders for any Crude Petroleum hereunder, Gibson may require that any Shipper Tendering Crude Petroleum to the Gibson Facilities provide at no cost to Gibson a pro rata share of the Working Stock. The pro rata calculation of quantity will be based on a Shipper's relative share of volume Tendered into the applicable segment or facility of the Gibson Facilities for the current month.

#### **15. STORAGE**

At the request of Shipper, Gibson may, in its sole discretion, provide storage for Crude Petroleum Tendered to the Gibson Hardisty Terminal upon such fee's, terms and conditions as specified by Gibson, from time to time.

#### **16. DEMURRAGE and SHORTAGE FEES**

a) It is expected that all Shippers owning Crude Petroleum in the Gibson Facilities balance their inventory positions at the end of each month. For each stream, Shippers may be allowed a tolerance margin on their required pro rata share of Working Stock equal to 1% of the average of a Shipper's total Tenders to the Gibson Facilities and such Shipper's total deliveries to a Delivery Point, but excluding all intraterminal transfers, for such month.

b) For each stream, in the event that a Shipper's monthly closing inventory is greater than their required pro rata share of Working Stock plus their tolerance margin, the Shipper may be levied a fee ("Demurrage Fee"), established by Gibson from time to time and posted on the applicable Toll Schedule, on the volume of Crude Petroleum in excess of their required pro rata share of Working Stock plus their tolerance margin.

c) For each stream, in the event that a Shipper's monthly closing inventory is less than their required pro rata share of Working Stock minus their tolerance margin, the Shipper may be levied a fee ("Shortage Fee"), established by Gibson from time to time and posted on the applicable Toll Schedule, on the volume of Crude Petroleum deficient of their required pro rata share of Working Stock minus their tolerance margin.

d) Only for the purpose of applying the Demurrage Fees and Shortage Fees, Working Stock shall be deemed to include the quantity of Crude Petroleum, as determined and specified by Gibson in its sole discretion, scheduled for delivery which is carried over from one month to the next and any volumes in storage pursuant to Section 15.

## **17. EQUALIZATION ADJUSTMENT**

(a) Gibson may, on a monthly basis, calculate an equalization adjustment for Crude Petroleum Tendered to the Gibson Facilities by or on behalf of each Shipper. The equalization adjustment shall be determined by Gibson utilizing procedures approved by the applicable industry committees, unless otherwise specified herein. The density and sulphur content of the Crude Petroleum Tendered by Shipper shall be determined pursuant to Section 8 and Schedule 1. Gibson may charge a fee for calculating the equalization adjustments at rates specified by Gibson on the applicable Toll Schedule, from time to time.

(b) Where any Shipper has a positive equalization adjustment, Shipper shall pay the adjustment to Gibson. Gibson shall pay the negative equalization adjustments to Shippers Tendering Crude Petroleum to the Gibson Facilities and entitled thereto; provided, that Gibson assumes no liability for payment of negative equalization adjustments unless Gibson receives payment of the positive equalization adjustments and if there is any shortfall, payments actually received by Gibson shall be allocated pro rata on a percentage basis to Shippers entitled to negative equalization adjustments; based on the amount that the Shipper would have received had all payments been received. Gibson may calculate and Shipper shall be liable for retroactive equalization adjustments for a period of up to three (3) months from the month for which the equalization statement in question had been issued.

## **18. PAYMENTS, LIEN AND SALE**

(a) All accounts, and the provision by Gibson of any and all transportation and terminalling services and any goods and services ancillary thereto, shall be subject to prior credit approval by Gibson.

(b) Shipper shall pay Gibson the applicable charges for the goods and services supplied on the Gibson Facilities determined using the fees specified in the applicable Toll Schedule issued from time to time by Gibson. Shipper shall also pay all other charges, including the diluent allocation charges and equalization adjustments payable hereunder and other lawful charges and taxes accruing on such Crude Petroleum or the services

provided hereunder. Gibson may also assess against Shipper any charge imposed on Gibson by the immediately downstream pipeline, terminal or other facility for movement of the Crude Petroleum. Crude Petroleum shall be subject to the applicable fees in effect on the date of receipt of such Crude Petroleum by Gibson irrespective of the date of the Tender. Gibson shall bill Shipper for such fees and charges. If required by Gibson, payment shall be made before Tendering Shipper's Crude Petroleum to Gibson and, as a precondition to accepting any Crude Petroleum hereunder, Gibson may require Shipper to provide Financial Assurances in accordance with Section 27.

- (c) Any charges owing by Shipper to Gibson shall, unless otherwise specified, be paid by Shipper on or before the 25<sup>th</sup> day of the month in which the invoice is received (the "Due Date"); provided, however, that if the Due Date is not a Business Day, payment shall be made on the preceding Business Day. Invoices from Gibson will be sent to Shipper at least two working days prior to the Due Date. After the Due Date, such amounts shall bear interest until paid at an annual rate of interest calculated and compounded monthly, equal to the prime rate of interest charged from time to time by Gibson's bank plus 2%. Subject to subsection 17(b), all invoices shall be deemed to be correct 60 days after receipt and Shipper hereby waives any rights which Shipper may have, at law or otherwise, to dispute the correctness of any invoice after such 60 day period.
- (d) Gibson shall have a general lien on all Crude Petroleum in its possession Tendered by Shipper to secure payment of charges hereunder and other lawful charges and may withhold delivery of Crude Petroleum until such charges are paid. If such charges remain unpaid for more than 10 days after the Due Date, Gibson shall have the right, without further notice to Shipper, to sell any Crude Petroleum Tendered by Shipper in its possession. From the proceeds of the sale of such Crude Petroleum, Gibson may pay itself all such charges, Demurrage Fees, Diluent charges, blending fees, marketing fees and all expenses of said sale, and the net balance, if any, shall be held for whomsoever may be lawfully entitled thereto.

**19. THIRD PARTY CLAIMS**

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

result of such Shipper's Crude Petroleum that is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind.

**20. LIABILITY OF GIBSON**

- (a) Gibson shall not be liable for any charges, losses, damages, penalties, costs or expenses related to any Crude Petroleum Tendered or failed to be Tendered by Shipper, or any delay in acceptance or delivery of such Crude Petroleum resulting from any cause whatsoever, except Gibson's own gross negligence; provided, however, that in no event shall Gibson be liable for consequential damages or business interruption losses.
- (b) In case of loss of Crude Petroleum while in the possession of Gibson from any cause, Gibson shall not bear any proportion of the loss, except as caused by Gibson's own gross negligence. Shipper shall be entitled to have delivered only such portion of its Crude Petroleum as may remain after the deduction of its proportionate share of such loss.
- (c) Gibson shall not be liable for the results of the Tendering of any Non-Specification Crude Petroleum and in the event of Tendering of such Non-Specification Crude Petroleum to the Gibson Facilities, the provisions of Section 7 shall apply. This Section 20 is in addition to Section 7 and is not intended to limit or lessen the effect of Section 7 in any way.

**21. CLAIMS AGAINST GIBSON**

Shipper may not institute any suit or action against Gibson arising out of any damage, delay, or loss in connection with any Crude Petroleum Tendered to the Gibson Facilities, or any errors in billing or charges by Gibson to the Shipper for goods supplied or services rendered by Gibson unless the claim is delivered to Gibson in writing within sixty (60) days after delivery of the Crude Petroleum to which the claim relates, or in case of failure to deliver, within sixty (60) days after reasonable time for delivery shall have elapsed. If Gibson rejects said claim, any suits or further action by Shipper arising out of such claims must be instituted within six (6) months of receipt of written notice from Gibson of such rejection. Shipper agrees to be bound by the provisions of this Section and waives any rights which Shipper might otherwise have, at law or otherwise, to make a claim after the expiration of the said period of sixty (60) days or to bring an action after the expiration of the said period of six (6) months.

**22. LIABILITY AND INDEMNITY OF SHIPPER**

Shipper shall be liable for and shall indemnify and save harmless Gibson from and against all action, causes of action, suits, claims, demands, damages, expenses and costs which may be brought against, suffered by or claimed by Gibson by reason of Shipper's default hereunder or

Shipper's negligent acts, failure to act or misconduct.

**23. SHIPPER RESPONSIBILITY FOR PRODUCER ACTIONS**

Shipper shall, or if Shipper is not the owner or operator of the facility, Shipper shall cause the owner or operator of the facility from which Crude Petroleum is Tendered by or on behalf of Shipper to the Gibson Facilities to comply with and be bound by these Rules and Regulations. Shipper shall indemnify and save harmless Gibson from and against all actions, causes of action, suits, claims, demands, damages and costs resulting directly or indirectly from such owner or operator failing to comply with these Rules and Regulations.

**24. NOTICES**

Publication of these Rules and Regulations, any Schedule attachments or any individual Toll Schedules on the Gibson website, [www.gibsons.com](http://www.gibsons.com), shall constitute notice of such Rules and Regulations, Schedules or individual Toll Schedules, as the case may be, to all Shippers and others using or intending to use the Gibson Facilities. The Rules and Regulations, Schedules or individual Toll Schedules, as the case may be, which are on the Gibson website and in effect at the time of Tendering Crude Petroleum by or on behalf of any Shipper shall govern the transportation and terminalling of such Crude Petroleum and any goods and services ancillary thereto.

Subject to the foregoing, any notice, designation, statement, invoice or other communication hereunder from Gibson to Shipper or from Shipper to Gibson shall be made in writing and sent by: ordinary mail, by personal delivery, by electronic transmission or by facsimile device by such party to the last recorded address or facsimile number of the other party. Communications sent by mail shall be deemed to have been received three (3) Business Days following the date of mailing. Provided such delivery or transmission occurs during normal business hours, communications sent by personal delivery, electronic transmission or facsimile device shall be deemed to have been received on the Business Day it was delivered or transmitted, otherwise on the next occurring Business Day. A party may, by notice in writing to the other party, change its address and/or facsimile number, from time to time in the manner herein provided for.

**25. FORCE MAJEURE**

- (a) If either Gibson or Shipper fails to perform any obligation under these Rules and Regulations due to an event of Force Majeure, then such failure shall be deemed not to be a breach of such obligations, and such obligations shall be deemed to be suspended for so long as the event of Force Majeure continues.
- (b) The term "Force Majeure" means:

- (i) any act of God, acts of war, terrorism, civil insurrection or disobedience, acts of public enemy, strikes, lockouts or other industrial disturbances, accidents, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, explosions, fires, floods, civil disturbances, the act, regulation, order, direction or requisition of any governmental, regulatory or other authority having or claiming jurisdiction, delays or inability to receive or obtain the necessary materials or supplies in a commercially reasonable manner, disruption in or curtailment of the operations of downstream pipelines, terminals or other facilities;
  - (ii) any mechanical or equipment failure; or
  - (iii) any other cause whether of the kind enumerated in subsections 25(b)(i) or (ii), or otherwise, which is beyond the reasonable control of the applicable Party and which could not have been prevented or overcome by the exercise of due diligence.
- (c) Notwithstanding subsections 25(a) and (b), the following shall not be events of Force Majeure:
- (i) insufficiency of Shipper's Crude Petroleum supplies or failure of Shipper's Crude Petroleum to meet the Crude Petroleum Specifications;
  - (ii) diversion of Shipper's existing Crude Petroleum supplies to more attractive markets;
  - (iii) lack of funds; or
  - (iv) Shipper's lack of takeaway capacity at the Delivery Point.
- (d) A party that fails to perform any obligation under these Rules and Regulations where such failure is caused by an event of Force Majeure shall promptly remedy the cause of the Force Majeure insofar as it is reasonably able to do so, provided that the terms of the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the party claiming suspension of its obligations hereunder by reason thereof.
- (e) No event of Force Majeure shall relieve any Shipper from its obligations pursuant to these Rules and Regulations to make payments to Gibson.

**26. GOVERNING LAW**

These Rules and Regulations shall be construed and applied in accordance with and be subject to the laws of the Province of Alberta and the laws of Canada applicable therein.

**27. FINANCIAL ASSURANCES**

- (a) Gibson may at any time, or from time to time, request and any prospective or existing Shipper shall provide information to Gibson that will allow Gibson to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise from the transportation of that Shipper's Crude Petroleum and the provision of goods or services by Gibson to that Shipper. Gibson may, at its sole discretion, refuse to accept Crude Petroleum for transportation from an existing or prospective Shipper if Shipper or prospective Shipper fails to provide the requested information to Gibson within ten (10) Days of Gibson's written request, or if Gibson determines in its sole discretion that the existing or prospective Shipper does not have, or no longer has, the capacity to perform any financial obligation that could arise from the transportation of that Shipper's Crude Petroleum.
  
- (b) In the event that Gibson reasonably determines that it requires Financial Assurances or additional Financial Assurances from Shipper, then Shipper shall provide Financial Assurances for the payment of the charges and costs lawfully due to Gibson relating to the transportation of Shipper's Crude Petroleum and the provision of goods or services to that Shipper by Gibson, which Financial Assurances may include one or more of the following: (i) prepayment; (ii) a letter of credit in favour of Gibson in an amount sufficient to ensure payment to Gibson; (iii) a guarantee, from a party satisfactory to Gibson in its sole discretion, in an amount sufficient to ensure payment due to Gibson; or (iv) such other enforceable collateral security satisfactory to Gibson in its sole discretion, (collectively the "Financial Assurances"). Gibson shall not be obliged to accept Crude Petroleum from such Shipper if such Shipper fails to deliver adequate Financial Assurances to Gibson within ten (10) Days of written notice from Gibson requiring such or additional Financial Assurances.

## GIBSON TARIFF NO. 100

### SCHEDULE 1

ISSUED: June 13, 2008

EFFECTIVE: July 1, 2008

#### **CRUDE PETROLEUM SPECIFICATIONS**

Without limiting the provisions of Section 7 of the Rules and Regulations, Crude Petroleum Specifications, all Crude Petroleum Tendered shall meet the following specifications using the latest version of the indicated standard or test method. Where more than one standard or test method is shown for a specification parameter, the standard or test method to be used in each situation shall be at the sole discretion of Gibson.

**Density (kg/m<sup>3</sup>)**: ASTM D1298 or D5002. The maximum density shall be:

- For the Hardisty Light stream, 889.0 kg/m<sup>3</sup> and,
- For all other streams, no limitations.

**Sulphur Content (g/kg)**: ASTM D4294 or D2622. No limitations.

**Vapour Pressure (kPa)**: ASTM D323 or D6377. The maximum vapor pressure shall be 100 kPa absolute at 37.8 °C.

The procedures used to transfer the sample to the vapour pressure testing apparatus may be modified from those stated in the referenced standards to minimize the risk of loss of any portion of the sample.

If Crude Petroleum is received having a vapor pressure in excess of this specification, at Gibson's sole discretion a penalty adjustment equal to the Tendered volume multiplied by a penalty factor may be deducted. The penalty factor, expressed as a percentage, shall be equal to 20% of the amount by which the vapor pressure exceeds the vapour pressure specification.

**Sediment & Water (Volume Percentage)**: Centrifuge methods MPMS Chapter 10.4 (in the field), D4007-02 (in the lab), distillation/extraction methods ASTM D473, D4006 or Karl Fischer methods D4377 and D4928. When Karl Fischer methods, which determine only the water content, are used, ASTM D4807 may be used to determine the sediment content and the two results shall be added together.

The maximum Sediment & Water ("S&W") content shall be 0.50%. If the Tendered Crude Petroleum has a S&W content in excess of this specification, at Gibson's sole discretion a penalty adjustment equal to the amount that the S&W content is in excess of the specification multiplied by the Tendered volume may be deducted in addition to the deduction for the full amount of the S&W content.

**Sulphate Reducing Bacteria:** ASTM D4412. Test results shall be negative.

**Organic Chlorides:** ASTM D4929. Crude Petroleum shall be free of organic chlorides.

**Cracked Materials (Olefins):** ASTM D1319 or any new test for Cracked Materials that is accepted by industry or is required to meet the specifications of the downstream pipeline, terminal or other facility into which the Crude Petroleum is to be delivered.

Crude Petroleum shall be free of cracked materials.

**TAN (mg KOH/g):** ASTM D664

For receipts into the Gibson Hardisty Terminal from feeder pipelines, including but not limited to the IPF pipeline systems, or into the Gibson Pipelines, the Total Acid Number (TAN) of Tendered Crude Petroleum shall not be greater than 1.0.

**Temperature:** MPMS Chapter 7 (applicable section).

For receipts into the Gibson Pipelines the temperature of Tendered Crude Petroleum shall not be more than 38 °C and shall be of sufficient temperature to enable the Tendered Crude Petroleum to flow readily to Gibson's LACT Equipment, unless Gibson has specified other location-specific limits in writing.

For receipts into the Gibson Hardisty Terminal the temperature of Tendered Crude Petroleum:

1. Shall not be more than 30 °C if the density is less than 790 kg/m<sup>3</sup> at 15 °C, or
2. Shall not be more than 85 °C if the density is equal to or greater than 790 kg/m<sup>3</sup> at 15 °C, unless Gibson has specified other limits in writing.

**Viscosity (centistokes):** ASTM D445 or D7042.

The minimum viscosity of Crude Petroleum Tendered to the Gibson Pipelines shall be 10 centistokes, determined at the greater of the temperature at which the Crude Petroleum is Tendered or 20.0 °C, unless Gibson has specified other location-specific limits in writing.

**Blending Shrinkage:** The method to be used to determine the quantity of blending shrinkage shall be as follows:

1. For the stream delivered by the Echo Pipeline, the NovaCor method, a copy of which is available to a Shipper upon request.
2. For all other streams, the method described in API 2509C.

Regardless of which method is used, when iterative procedures are used to determine the volume of diluent required or allocated, the number of iterations used shall be consistent with standard industry practice.