

# F.E.R.C. I.C.A. Oil Tariff

# F.E.R.C. No. 1.5.0

(Issued in lieu of F.E.R.C. 1.4.0 which was rejected and cancels F.E.R.C. No. 1.3.0)

## DAKOTA ACCESS, LLC

### LOCAL PIPELINE TARIFF CONTAINING THE RULES AND REGULATIONS GOVERNING THE TRANSPORTATION AND HANDLING OF CRUDE PETROLEUM

Filed in compliance with **18 CFR §341.3 Form of tariff.**

Subject to Rules and Regulations shown on Pages 3 through 10

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

**ISSUED: DECEMBER 30, 2022**

**EFFECTIVE: FEBRUARY 1, 2023**

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**GENERAL APPLICATION**

**Carrier will receive, transport, and deliver Crude Petroleum through its facilities only as provided in these Rules and Regulations, except that specific Rules and Regulations published in individual tariffs will take precedence over Rules and Regulations published herein or in succeeding reissues of these Rules and Regulations.**

**5. Definitions**

“API” means American Petroleum Institute.

“ASTM” means [W] “ASTM International”, formerly American Society for Testing and Materials.

“ASTM D6377” means the standard test method for determination of vapor pressure of crude oil at 100°F, at a 4:1 V/L ratio; VPCR<sub>x</sub> (Expansion Method).

“Adjusted Nominations” means the valid and binding Nominations that are received by Carrier from Shippers, as may be modified by Carrier pursuant to Carrier’s Proration Policy if Shippers have been notified that a specific Pipeline segment has been prorated.

“Bakken Crude Petroleum” means a category of Crude Petroleum having an API gravity equal to or greater than 37° but not exceeding 75° and a sulfur content weight % not greater than 0.50%.

“Barrel” means a volume of forty-two (42) United States Gallons at sixty degrees (60°) Fahrenheit and zero (“0”) gauge pressure if the vapor pressure of the petroleum is at or below atmospheric pressure, or at equilibrium vapor pressure if the vapor pressure of the petroleum is greater than atmospheric pressure.

“Carrier” means Dakota Access, LLC.

“Committed Shipper” means a Shipper that has committed to ship, or pay a deficiency payment for failure to ship, certain minimum volumes of Crude Petroleum pursuant to a TSA on specified segments of the Pipeline, as provided in such Shipper’s TSA.

“Consignee” means the party, including a connecting pipeline system or connecting terminal, to whom Shipper has ordered Delivery of Crude Petroleum.

“Crude Petroleum” means the direct product of oil wells or a mixture of the indirect products transportable like the direct products and containing not more than two percent (2%) of sediment, water, and other impurities.

“Destination Point” means the destination points provided in this Tariff.

“Delivery” means the transfer from Carrier at destination to Consignee.

“F.E.R.C.” means the Federal Energy Regulatory Commission or its successor agencies.

“Monthly Maximum Committed Entitlement” means, for a Committed Shipper, the Monthly Maximum Committed Entitlement as defined in such Committed Shipper’s TSA.

“Monthly Minimum Volume” means the product of the minimum daily volume commitment of Crude Petroleum for a specified path on the Pipeline set out in Schedule A to a Committed Shipper’s TSA and the number of days in the relevant month.

“Nomination” means a request by a Shipper to Carrier to transport a stated quantity of Crude Petroleum on the Pipeline for the account of such Shipper in any month.

“Origin Point” means the origin point(s) provided in this Tariff.

“Pipeline” means the pipeline systems of Dakota Access, LLC.

“Receipt” means the transfer from Shipper at an Origin Point(s) to Carrier for transportation.

“Required Inventory” means the volume of Crude Petroleum, by grade, required by Carrier for line fill, working stock and storage receptacle bottoms.

“Shipper” means the party who contracts with Carrier for the transportation of Crude Petroleum under the terms of this tariff.

“Shipper’s Inventory” means total Receipts of Crude Petroleum, by grade, from a single Shipper less Deliveries to that Shipper’s Consignees.

“Specified Grade” means Crude Petroleum meeting certain specifications designated by Carrier for such grade of Crude Petroleum.

“Tender” or “Tendering” means to physically deliver, or cause to be delivered, Crude Petroleum, by or on behalf of a Shipper to Carrier for transportation from an Origin Point to the Destination Point in accordance with this tariff.

“TSA” means a Transportation Service Agreement executed pursuant to the “Dakota Access Pipeline” open season that commenced on March 12, 2014, the expansion open season that commenced on September 23, 2014, or any supplemental or expansion open season thereafter.

“Vapor Pressure” means the pressure above the surface of a liquid relative to zero pressure (absolute). Also called true vapor pressure.

**10. Quality Specifications; Restrictions**

Carrier will receive Crude Petroleum only through its facilities at an Origin Point. Shipper shall not deliver to Carrier without Carrier’s written consent, and Carrier reserves the absolute right to reject on a not unduly discriminatory basis, without limitation, any or all of the following: (1) Crude Petroleum that is not readily susceptible to transportation through Carrier’s existing facilities; (2) Crude Petroleum having a vapor pressure in excess of 13.7 pounds per square inch absolute at 100°F, using the ASTM D6377 test method, or that would result in Carrier’s non-compliance with any federal, state, or local requirements regarding hydrocarbon emissions; (3) Crude Petroleum having an API (American Petroleum Institute) gravity in excess of 78.9°; (4) Crude Petroleum having an API gravity less than 37°; (5) Crude Petroleum having a sulfur content weight % greater than 0.50%; (6) Crude Petroleum exceeding 10 ppm hydrogen sulfide (H<sub>2</sub>S) [W] in vapor phase, using the applicable test method; (7) Crude Petroleum having sediment, water and other impurities of greater than one-half (1/2) of one (1) percent; and (8) Crude Petroleum that does not meet the specifications of the connecting carriers. Carrier reserves the right to reject any Crude Petroleum offered for transportation other than good and merchantable Crude Petroleum of acceptable character which, when measured and tested by Carrier or Carrier’s representative at the Origin Point, meets all of the qualifications under this tariff. The presence of contaminants in Crude Petroleum, including but not limited to chemicals such as chlorinated and/or oxygenated hydrocarbons and/or lead shall be reason for Carrier to reject any Crude Petroleum. Crude Petroleum containing such contaminants shall be deemed to be unmerchantable, and a Shipper who offers contaminated Crude Petroleum shall be deemed to have breached the warranty and representations set forth in Item No. 75 herein.

Pursuant to an applicable rates tariff, Carrier will from time to time give notice to Shippers establishing categories of Crude Petroleum and Specified Grade(s) therein that it will regularly transport as a common stream between each Origin Point and each Destination Point. The Shipper shall, at the request of the Carrier, make such Specified Grade(s) available in such quantities and at such times as may be necessary to permit such common stream movements. Carrier may from time to time, after reasonable notice to Shippers who have shipped a category of Crude Petroleum or a Specified Grade therein in the prior 3 months, cease to transport such category of Crude Petroleum or Specified Grade as a common stream or change the specifications of a particular category of Crude Petroleum or a Specified Grade transported as a common stream.

At the request of a Shipper, and subject to other provisions of the Rules and Regulations, Carrier will accept for shipment the following Specified Grade(s) to be transported as a common stream of Bakken Crude Petroleum from the Origin Point to the Destination Point:

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	<b>Bakken General*[N] ^</b>
API Gravity, ° API	39-48
Sulfur Content, Weight %	≤0.20%
S&W	≤0.5%
[N] <u>Vanadium**</u>	≤ 1 ppm
[N] <u>Total Metals (Nickel &amp; Vanadium)**</u>	≤ 3 ppm

Max Vapor Pressure at 100°F, psi	13.0	12.5	13.7
Applicable Time Period	May 1 – May 15	May 16 – Sep 30	Oct 1 – April 30

\*Applicable to point(s) of origin not further downstream than the most downstream of Carrier's point(s) of origin in North Dakota.

[N] \*\* Nickel and Vanadium measured using ASTM D5708 or D8252 test methods.

[N] ^ Must be Crude Petroleum indigenous to the Williston Basin.

The specifications for any Specified Grades are, without limitation, subject to modification from time to time in the event upstream connecting carriers modify their specifications for similar grades of Crude Petroleum.

At the request of a Shipper, and subject to other provisions of these Rules and Regulations, Carrier will accept for shipment other categories of Crude Petroleum or Specified Grades to be transported as a common stream pursuant to a rates tariff, subject to the operating conditions of the facilities. Such request must specify (1) a vapor pressure using the ASTM D6377 test method and/or an API gravity range; [W] ~~and~~ (2) a sulfur content weight % limitation; [N] (3) vanadium content limitation; and (4) total metals content limitation.

Crude Petroleum tendered for transportation which differs in grade and general characteristics from that usually transported by Carrier will, at the Carrier's option, be transported only under terms agreed upon, in writing, by Shipper and Carrier.

Shipper shall provide, at the Origin Point, adequate storage and other facilities for receiving, measuring, testing, and collecting sufficient Crude Petroleum for aggregation into minimum batch volumes. Carrier has working tanks that are needed to receive the Specified Grade(s) hereunder, and therefore does not have facilities for rendering, nor does it offer, storage services. Carrier will determine and advise shippers of the facilities to be provided at the point of Receipt to meet the operating conditions of Carrier's facilities at such point. Carrier will not accept Crude Petroleum for transportation, unless such facilities have been provided.

**15. Destination Arrangements Required**

Carrier will receive Crude Petroleum for transportation only (a) when Crude Petroleum is to be received into Carrier's facilities at an Origin Point and Shipper or Consignee has made arrangements for further transportation beyond the Destination Point or (b) when Shipper or Consignee has provided the necessary facilities for receiving Crude Petroleum promptly on arrival at destination.

**20. Gauging, Metering, Testing, Volume Corrections and Deductions**

All shipments tendered to Carrier for transportation shall be gauged or metered and tested by a representative of Carrier or by automatic equipment approved by Carrier prior to, or at the same time as, Receipt from the Shipper. But the Shipper or Consignee shall have the privilege of being present or represented during the gauging or metering and testing. Shipper will grant access to Shipper's facility to Carrier's representative for witnessing meter or gauge readings or meter proving and for any other required inspection incidental to measurement and transportation of Crude Petroleum.

Quantities gauged or metered shall be corrected from observed temperatures to sixty degrees (60°) Fahrenheit using applicable Standard Petroleum Measurement Tables adopted jointly by the [W] API (API Chapter 11.1) and ~~the American Society for Testing Materials~~ ATSM International (ASTM Standard D 1250). The full percentage of sediment water or other impurities as ascertained by a centrifuge machine or other tests will be deducted from the corrected volume.

Net of Carrier's adjustment for sediment, water, and other impurities, a further deduction of one-quarter of one percent (0.25%) shall apply to net quantities determined for acceptance by Carrier tendered at the Origin Point as allowance oil received from the Shipper to cover losses inherent in the transportation of Crude Petroleum by the pipeline. All Receipts of Crude Petroleum and indirect liquid products having an API gravity of 55 degrees or above shall also be subject to further deduction to cover shrinkage and evaporation. Such deduction shall be determined in accordance with the following table:

API Gravity, Degrees	Deduction For Incremental Evaporation & Loss
55° through 59.9°	1.0%
60° through 74.9°	1.5%
Greater than 75°	2.0%

**25. Required Inventory**

Each Shipper shall supply its share of Required Inventory by types and volumes as determined from time to time by Carrier provided that (i) all Committed Shippers that commit to a Monthly Minimum Volume from an Origin Point to a Destination Point for a TSA term of seven years or ten years shall be subject to identical provisions regarding limits on the extent of their obligations to supply Required Inventory, depending on the applicable Origin Point and Destination Point combination and the length of the TSA term of the associated Monthly Minimum Volume

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Commitment; and (ii) any shortfall in total Required Inventory in any Month resulting from the limitations on Committed Shippers' shares of Required Inventory set forth in this sentence shall be supplied by Carrier. During the term of their TSAs Committed Shippers shall be required to maintain a share of Required Inventory as set forth in their respective TSAs, whether or not such Committed Shippers Nominate for shipments on the Pipeline. Such Required Inventory may be withdrawn from Carrier's system at any time within ninety (90) days subsequent to: (1) Shipper having ceased tendering shipments and notified Carrier in writing that it will no longer tender shipments to Carrier; (2) Shipper balances having been reconciled between Shipper and Carrier; and (3) Shipper having paid Carrier for all services.

### **30. Mixing in Transit**

Crude Petroleum will be accepted for transportation only on condition that it shall be subject to normal changes in general characteristics while in transit as may result from the mixture of such Crude Petroleum with other Crude Petroleum in the Pipeline and/or tanks of Carrier.

Carrier will not be liable for variations of gravity or quality of Crude Petroleum occurring while in its custody and is under no obligation to deliver the identical Crude Petroleum as received or Crude Petroleum of the same quality specifications; provided that if Crude Petroleum is designated by a Shipper as a Specified Grade to be shipped in a common stream and is received by Carrier as Crude Petroleum meeting such Specified Grade specifications, Carrier shall endeavor to deliver substantially the same grade specifications of such Specified Grade as that received from a Shipper.

### **35. Clear Title Required**

Carrier shall have the right to reject any Crude Petroleum on a non-discriminatory basis when tendered for transportation, which is involved in litigation, or the title of which is in dispute, or which is encumbered by lien or charge of any kind, and it may require of the Shipper satisfactory evidence of its perfect and unencumbered title or a satisfactory indemnity bond to protect the Carrier.

### **40. Common Stream Petroleum Connecting Carriers**

When both Receipts from and/or Deliveries to a connecting carrier of substantially the same category of Crude Petroleum or Specified Grade are scheduled at the same interconnection, Carrier reserves the right, with cooperation of the connecting carrier, to offset like volumes of such common stream Crude Petroleum. When this right is exercised, Carrier will make deliveries for the Shipper involved from its substantially similar common stream Crude Petroleum.

### **45. Deliveries and Demurrage**

Carrier will transport Crude Petroleum with reasonable diligence, considering the quality of the Crude Petroleum, the distance of transportation, and other material elements, but may at any time after Receipt of a consignment of Crude Petroleum, upon twenty-four (24) hours' notice to the Consignee, Tender Crude Petroleum conformable to specifications herein, for Delivery from its



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common stock at the Destination Point. At the expiration of such notice, the Carrier may assess a demurrage charge on all Crude Petroleum tendered for Delivery and remaining undelivered, at the rate for each day of twenty-four (24) hours, or fractional part thereof, as follows; Fifty-Three hundredths cents [U] (0.53¢) per Barrel per day. After expiration of said 24-hour notice, Carrier's liability for loss, damage or delay with respect to Crude Petroleum offered for delivery but not taken by Shipper or Consignee shall be that of a warehouseman only. If the Shipper or Consignee is unable or refuses to receive said Crude Petroleum as it arrives at the specified destination, Carrier reserves the right to make arrangements, at Shipper's sole cost and expense, for disposition of the Crude Petroleum, including proceed to sell such Crude Petroleum, in accordance with the applicable provisions of state law.

### **50. Payment of Transportation and Other Charges**

A Shipper shall pay all charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the transportation of the Shipper's Crude Petroleum by the Carrier. The Shipper shall pay such charges and costs based on Delivery quantities determined pursuant to the applicable invoice and this tariff. Shipper shall be responsible for transportation and all other charges applicable to the particular shipment, and, if required, shall prepay all charges or furnish guaranty of payment satisfactory to Carrier. Payment of all charges is due within 10 days from receipt of the applicable invoice. Crude Petroleum accepted for transportation on the Pipeline shall be subject to a general lien and security interest in favor of Carrier. This lien and security interest shall secure: (1) all transportation and any other charges or amounts due or to become due, owed, or otherwise payable from Shipper under the terms of this tariff or any TSA executed by Shipper, and (2) all costs and expenses of Carrier in exercising any of its rights detailed below, including, but not limited to, reasonable attorney fees, storage charges, and settlement of conflicting liens. Shipper irrevocably authorizes Carrier at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements deemed necessary or desirable by Carrier to establish or maintain the validity, perfection and priority of the lien and security interests granted herein, and Shipper ratifies any such filings made by Carrier prior to the date hereof. The lien and security interest provided herein shall be in addition to any lien provided by statute or common law. In the event Shipper fails to satisfy when due any obligation to Carrier, Carrier shall have all of the rights and remedies accorded to a secured party under applicable state law and in addition may take any or all of the following actions: (1) refuse to deliver Crude Petroleum in its custody until all such obligations have been paid; (2) proceed to sell such Crude Petroleum, in accordance with the applicable provisions of state law, and apply the proceeds to such obligations, (3) store such Crude Petroleum or contract for storage of such products pending sale or other disposition; or (4) take any other action it deems necessary for the proper protection and sale of such Crude Petroleum. Carrier may agree, at its sole discretion, to waive its security interest in the Crude Petroleum if Shipper or Consignee provides sufficient security satisfactory to Carrier.

### **55. Proration of Pipeline Capacity**

If, during any period, the total volume of Crude Petroleum nominated over any segment of the Pipeline is in excess of the normal operational capacity of said segment, Carrier shall allocate transportation capacity in accordance with the "Dakota Access, LLC Proration Policy," effective

November 12, 2018. The proration policy will be provided upon request by the person listed as compiler on the title page of this tariff.

**60. Liabilities of Parties**

As a condition to Carrier's acceptance of Crude Petroleum under this tariff, each Shipper agrees to protect and indemnify Carrier against claims or actions for injury and/or death of any and all persons whomever and for damage to property of, or any other loss sustained by Carrier, Shipper, Consignee and/or any third party resulting from or arising out of 1) any breach of or failure to adhere to any provision of this tariff by Shipper, Consignee, their agents, employees or representatives and/or 2) the negligent act(s) or failure(s) to act of Shipper, Consignee, their agents, employees or representatives in connection with Delivery or Receipt of Crude Petroleum.

The Carrier, while in possession of Crude Petroleum herein described, shall not be liable for any loss of Crude Petroleum; damage thereto; or delay because of any act of God, the public enemy, civil disorder, quarantine, the authority of laws, strikes, riots, fire, floods or the acts of default of Shipper or Consignee, or from any other causes not due to the negligence of Carrier. In case of loss or damage from causes other than the negligence of Carrier, such loss or damage shall be charged proportionately to each shipment in the ratio that such shipment, or portion thereof, received and undelivered at the time the loss or damage occurs, bears to the total of all shipments or portions thereof, then in custody of Carrier for shipment via the lines or other facilities in which the loss or damage occur. Consignee shall be entitled to receive only that portion of a Shipper's shipment remaining after deducting its proportion of such loss or damage, determined as aforesaid, and Shipper shall be required to pay transportation charges only on the quantity delivered. CARRIER WILL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, EXCEPT AS OTHERWISE PROVIDED HEREIN. FOR THE AVOIDANCE OF DOUBT, DEFICIENCY PAYMENTS AND ANY OTHER PAYMENTS UNDER SECTION 4 OF A TSA SHALL BE DEEMED DIRECT DAMAGES AND NOT EXCLUDED BY THIS ITEM NO. 60.

**65. Notice of Claims**

As a condition precedent to recovery, claims must be filed in writing with Carrier within nine (9) months after Delivery of Crude Petroleum, or, in case of failure to make Delivery, then within nine (9) months after a reasonable time for Delivery has elapsed; and suits shall be instituted against Carrier only within two (2) years and one (1) day from the day when notice in writing is given by Carrier to the claimant that Carrier has disallowed the claim or any part or parts thereof.

**70. Intrasystem Transfers**

Carrier will allow Shipper Transfer of one shipper to another, and Title Transfers from one ownership to another for Petroleum in custody of Carrier. A charge of one cent (\$.01) per barrel will be made to each party directing such transfers.

**75. Nominations and Tenders**

Shippers desiring to nominate Crude Petroleum for transportation by the Carrier shall provide Carrier with written notice of the type and quantity of its Nomination ("Notice of Intent to Ship").

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Shippers also shall promptly provide Carrier with other information requested by Carrier to confirm that the Nominations and the proposed shipment will comply in all respects with this tariff. Each monthly Notice of Intent to Ship shall contain a warranty in favor of Carrier that the Crude Petroleum identified in the Nomination meets Carrier's specifications as set forth in Item No. 10 herein. Notices of Intent to Ship must be received by Carrier via facsimile transmission equipment acceptable to Carrier on or before 4:15 P.M. central time, the last working day prior to 16th day of the month preceding the month during which shipment is requested. A "working day" shall be a Monday, Tuesday, Wednesday, Thursday or Friday of a calendar week, except when a Federal holiday falls on such day of the week.

Crude Petroleum within a Specified Grade will be accepted for transportation under this tariff in shipments not less than twenty-five thousand (25,000) Barrels from one Shipper. Except for Crude Petroleum tendered for transportation within a Specified Grade, Crude Petroleum will be accepted for transportation under this tariff in shipments not less than one hundred thousand (100,000) Barrels from one Shipper. Carrier shall have the option to accept smaller batches. No Tender shall be considered beyond the amount which the party requesting shipment has readily accessible for shipment. Notwithstanding the statements set forth above with respect to minimum shipment sizes, a monthly Nomination submitted by a Shipper must be for at least 100,000 Barrels unless otherwise agreed by Carrier.

### **EXPLANATION OF REFERENCE MARKS:**

- [N] NEW**
- [W] WORDING CHANGE**
- [U] UNCHANGED RATE**