



# **FORTISBC ENERGY INC.**

## **RATE SCHEDULE 26**

### **NATURAL GAS VEHICLE TRANSPORTATION SERVICE**

**Effective November 1, 2018**

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## 1. Definitions

### 1.1 Definitions

Except where the context requires otherwise, all words and phrases defined below or in the General Terms and Conditions of FortisBC Energy and used in this Rate Schedule or in a Transportation Agreement have the meanings set out below or in the General Terms and Conditions of FortisBC Energy. Where any of the definitions set out below conflict with the definitions in the General Terms and Conditions of FortisBC Energy, the definitions set out below govern.

- (a) **Authorized Quantity** – means, subject to interruptions or curtailments as provided in Section 4 (Transportation) or due to provisions of the Transportation Agreement, the quantity of energy (in Gigajoules) for each Day approved by the Transporter for transportation Service on the Transporter's pipeline system, based on the quantity requested pursuant to Section 7.1 (Requested Quantity), adjusted as set out in Section 7.2 (Adjustment of Requested Quantity) or the quantity of energy approved for sale by FortisBC Energy under an applicable Rate Schedule, or any component or aggregate of these quantities, as the context requires.
- (b) **Backstopping Gas** - means Gas made available by FortisBC Energy as an interruptible backup supply if on any Day the Authorized Quantity is less than the Requested Quantity, adjusted as set out in Section 7.2 (Adjustment of Requested Quantity).
- (c) **Balancing Gas** - means any Gas taken during a Day which is in excess of the Authorized Quantity, subject to Section 8.1 (Gas Balancing).
- (d) **Commencement Date** - means the day specified as the Commencement Date in the Transportation Agreement.
- (e) **Contract Year** - means a period of 12 consecutive Months commencing at the beginning of the 1<sup>st</sup> Day of November and ending at the beginning of the next succeeding 1<sup>st</sup> Day of November.
- (f) **Day** - means, subject to Section 1.2 (Change in Definition of "Day"), any period of twenty-four consecutive hours beginning and ending at 7:00 a.m. Pacific Standard Time.
- (g) **Delivery Point** - means the point specified in a Sales Service Agreement or a Transportation Agreement where FortisBC Energy delivers Gas to a Customer or a Shipper.
- (h) **DTQ or Daily Transportation Quantity** - means the Firm DTQ.

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- (i) **EKE** - means the East Kootenay Exchange, an Interconnection Point where the FortisBC Energy System interconnects with the facilities of TransCanada PipeLines Limited (Foothills System B.C.).
- (j) **Firm DTQ** - means the maximum quantity of Gas that FortisBC Energy is obligated to transport for and deliver on a firm basis to a Shipper at the Delivery Point on any particular Day, which reasonably reflects the Shipper's requirements and is specified in a Transportation Agreement.
- (k) **Firm EKE Receipt Service** - means the firm receipt Service by which the Shipper provides Gas to FortisBC Energy at EKE for firm transportation to a Delivery Point in the Inland area, as described in Section 11.1 (Firm EKE Receipt Service).
- (l) **Force Majeure** - means any acts of God; strikes, lockouts, or other industrial disturbances; civil disturbances, arrests and restraints of rulers or people; interruptions by government or court orders; present or future valid orders of any regulatory body having proper jurisdiction; acts of the public enemy, wars, riots, blackouts, insurrections; failure or inability to secure materials or labour by reason of regulations or orders of government; serious epidemics; landslides, lightning, earthquakes, fires, storms, floods, washouts, explosions, breakage or accident to machinery or lines of pipes, or freezing of wells or pipelines; or the failure of gas supply, temporary or otherwise, from a Supplier of gas, which act of Force Majeure was not due to negligence of the party claiming Force Majeure. Further, Force Majeure will also include a declaration of force majeure by a Transporter that results in Gas being unavailable for delivery at the Interconnection Point.
- (m) **Group** - means a group of Shippers who each transport Gas under a transportation Rate Schedule, have a common Shipper Agent, and who have each entered into a Transportation Agreement.
- (n) **Interconnection Point** - means a point where the FortisBC Energy System interconnects with the facilities of one of the Transporters of FortisBC Energy, as specified in a Transportation Agreement.
- (o) **Interruptible EKE Receipt Service** - means the interruptible receipt Service by which the Shipper provides Gas to FortisBC Energy at EKE for firm transportation to a Delivery Point in the Inland area or the Lower Mainland area, as described in Section 11.2 (Interruptible EKE Receipt Service).
- (p) **Month** - means, subject to any changes from time to time required by FortisBC Energy, the period beginning at 7:00 a.m. Pacific Standard Time on the first day of the calendar month and ending at 7:00 a.m. Pacific Standard Time on the first day of the next succeeding calendar month.
- (q) **NGV** - means natural gas for vehicles.

- (r) **Non-Bypass Shipper** - means a Shipper that receives Service under Rate Schedule 23, 25 or 22A and pays rates as set out in the standard Table of Charges for the applicable Rate Schedule.
- (s) **Peak Day Demand** - means the quantity of energy used for the purposes of determining the Peaking Gas and EKE Receipt Service available to a Non-Bypass Shipper, as calculated pursuant to Section 10.3 (Peak Day Demand).
- (t) **Peaking Gas** - means Gas which is provided to the Shipper by FortisBC Energy in accordance with the provisions of Section 10 (Peaking Gas Service).
- (u) **Peaking Gas Quantity** - means the Peaking Gas available to a Non-Bypass Shipper on a Day, determined pursuant to the provisions of Section 10.4 (Peaking Gas Quantity).
- (v) **Rate Schedule 26 or this Rate Schedule** - means this Rate Schedule, including all rates, terms and conditions, and the Table of Charges, as amended from time to time by FortisBC Energy with the consent of the British Columbia Utilities Commission.
- (w) **Replacement Gas** - means Gas which is provided to a Shipper by FortisBC Energy in the event the Shipper fails to return Peaking Gas Quantity pursuant to Section 10.6 (Return of Peaking Gas Quantity).
- (x) **Requested Peaking Gas Quantity** - means the quantity of energy for each Day requested as Peaking Gas under this Rate Schedule.
- (y) **Requested Quantity** - means the quantity of energy for each Day requested for firm transportation Service under this Rate Schedule 26, or for sales by FortisBC Energy under an applicable Rate Schedule, or any component or aggregate of these quantities, as the context requires.
- (z) **Shipper** - means a person who enters into a Transportation Agreement with FortisBC Energy and who is also the consumer of the Gas transported.
- (aa) **Shipper Agent** - means a person who enters into a Shipper Agent Agreement with FortisBC Energy.
- (bb) **Shipper Agent Agreement** - means an agreement between FortisBC Energy and a Shipper Agent pursuant to which the Shipper Agent agrees to act as agent for a Group.
- (cc) **Southern Crossing Pipeline** - means the pipeline and other facilities constructed by FortisBC Energy from EKE to an interconnection with existing FortisBC Energy facilities near Oliver that will enable FortisBC Energy to transport Gas between EKE and the Delivery Point.

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- (dd) **Sumas Daily Price** - means the "NW Sumas" Daily Midpoint Price as set out in Gas Daily's Daily Price Survey for Gas delivered to Northwest Pipeline Corporation at Sumas, converted to Canadian dollars using the noon exchange rate as quoted by the Bank of Canada one Business Day prior to the Gas flow date, for each Day. Energy units are converted from MMBtu to Gigajoule by application of a conversion factor equal to 1.055056 Gigajoule per MMBtu.
- (ee) **Supplier** - means a party who sells Gas to a Shipper or FortisBC Energy or has access to its own supplies of Gas.
- (ff) **Table of Charges** - means the table of prices, fees and charges, as amended from time to time by FortisBC Energy with the consent of the British Columbia Utilities Commission, appended to this Rate Schedule.
- (gg) **Timely Nomination Cycle** – means nominations received for the following Day or subsequent Day(s), which closes at 11:00 a.m. Pacific Standard Time.
- (hh) **Transportation Agreement** - means an agreement between FortisBC Energy and a Shipper to provide Service pursuant to a transportation Rate Schedule.
- (ii) **Transporter** - means, in the case of the Columbia area, TransCanada PipeLines Limited (Foothills System, B.C.) and NOVA Gas Transmission Ltd., and in the case of the Inland and Lower Mainland areas, Westcoast Energy Inc., Northwest Pipeline LLC, FortisBC Huntingdon Inc., and any other gas pipeline transportation company connected to the facilities of FortisBC Energy from which FortisBC Energy receives Gas for the purposes of Gas transportation or resale.
- (jj) **Transporter's Service Terms** - means the general terms and conditions of the applicable Transporter, as filed with and approved from time to time by the National Energy Board or other applicable governmental authority.
- (kk) **Unauthorized Overrun Gas** - means any Gas taken on any Day in excess of the curtailed quantity specified in any notice to interrupt or curtail a Shipper's take or to interrupt or curtail a Group's take, and for greater certainty, Unauthorized Overrun Gas includes all Gas taken by a Shipper or a Group to the extent that the obligation of FortisBC Energy to deliver such Gas is suspended by reason of Force Majeure.

## 1.2 Change in Definition of "Day"

FortisBC Energy may amend the definition of "Day" from time to time to suitably align its operations with those of its Transporters. If FortisBC Energy amends the definition of "Day", a pro-rata adjustment of quantities of Gas and charges to account for any Day of more or less than 24 hours will be made and the terms of the Transportation Agreement will be similarly adjusted.

## 2. Applicability

### 2.1 Description of Applicability

This Rate Schedule is applicable to Shippers with a normalized annual consumption at one Premises of greater than 2,000 Gigajoules of firm Gas. The Gas being shipped under this Rate Schedule must be used in fuel for vehicles.

### 2.2 British Columbia Utilities Commission

This Rate Schedule may be amended from time to time with the consent of the British Columbia Utilities Commission.

## 3. Conditions of Service

### 3.1 Conditions

FortisBC Energy does not provide transportation Service as a common carrier. FortisBC Energy will only transport Gas under this Rate Schedule to Shippers in the territory served by FortisBC Energy under the FortisBC Energy tariff of which this Rate Schedule is a part if:

- (a) the Shipper has entered into a Transportation Agreement;
- (b) adequate capacity exists on the FortisBC Energy System; and
- (c) FortisBC Energy has installed at the Delivery Point the facilities and equipment referred to in Section 15.1 (Facilities and Equipment).

### 3.2 Security

In order to secure the prompt and orderly payment of the charges to be paid by the Shipper to FortisBC Energy under the Transportation Agreement, FortisBC Energy may require the Shipper to provide, and at all times maintain, an irrevocable letter of credit in favour of FortisBC Energy issued by a financial institution acceptable to FortisBC Energy in an amount equal to the estimated maximum amount payable by the Shipper under this Rate Schedule and the Transportation Agreement for a period of 90 Days. Where FortisBC Energy requires a Shipper to provide a letter of credit and the Shipper is able to provide alternative security acceptable to FortisBC Energy, FortisBC Energy may accept such security in lieu of a letter of credit.

**3.3 Warning if Switching from Interruptible Transportation Service or Interruptible Sales to Firm Transportation Service or Sales**

A Shipper wishing to request a switch at the end of the term of an interruptible Transportation Agreement or an interruptible Gas Service Agreement to a firm sales Rate Schedule, or to firm transportation under this Rate Schedule, or to increase their Firm DTQ under this Rate Schedule must comply with the requirements for Firm Service set out in the applicable Rate Schedule, including the following:

- (a) give 12 months prior notice to FortisBC Energy of the Shipper's desire to do so; and
- (b) after receiving an estimate from FortisBC Energy of costs FortisBC Energy will reasonably incur to provide such Service, agree to reimburse FortisBC Energy for any such costs.

Notwithstanding Section 3.3(a), FortisBC Energy will make reasonable efforts to accommodate a Shipper on less than 12 months prior notice if FortisBC Energy is able, with such shorter notice, to arrange for the firm purchase and firm transportation of Gas under a firm sales Rate Schedule, or transportation under a firm transportation Rate Schedule.

**3.4 Right to Sell**

Customer will not sell Gas except as fuel for vehicles.

**4. Transportation**

**4.1 Transportation of Gas**

Subject to Section 13 of the General Terms and Conditions of FortisBC Energy (Interruption of Service), and all of the terms and conditions of this Rate Schedule, FortisBC Energy will on each Day transport for and deliver to the Shipper at the Delivery Point the Authorized Quantity, received at the Interconnection Point from the Transporter up to the Requested Quantity, where adequate capacity exists on the FortisBC Energy System.. On each Day, if the Shipper's Gas received at the Interconnection Point is not consumed by the Shipper or is not authorized for delivery to the Shipper, FortisBC Energy will be entitled to utilize such Gas subject to all the terms of this Rate Schedule and the Transportation Agreement.

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**4.2 Curtailment**

Consistent with the provisions of Section 7.5 (Failure to Deliver to Interconnection Point), if at any time FortisBC Energy, acting reasonably, determines that it is not able to provide Balancing Gas or Backstopping Gas, FortisBC Energy may curtail the Shipper's take to the lesser of the Authorized Quantity or the Firm DTQ.

**4.3 Notice of Curtailment**

Each notice from FortisBC Energy to the Shipper with respect to the interruption or curtailment by FortisBC Energy of deliveries of Gas to the Delivery Point will be by telephone, by facsimile ("fax"), and/or by other electronic means, and will specify the quantity of Gas to which the Shipper is curtailed and the time at which such curtailment is to be made. FortisBC Energy will make reasonable efforts to give the Shipper as much notice as possible with respect to such curtailment, not to be less than 8 Hours prior notice unless prevented by Force Majeure.

**4.4 Default Regarding Curtailment**

The Shipper will comply with each notice to interrupt or curtail the Shipper's take. If the Shipper at any time fails or neglects to comply with a notice to interrupt or curtail the Shipper's take as set out in Section 7.5 (Failure to Deliver to Interconnection Point), FortisBC Energy may, in addition to any other remedy that it may then or thereafter have, at its option, without liability therefor and without any prior notice to the Shipper:

- (a) turn off the valve at the Delivery Point; or
- (b) deliver such Gas and charge the Shipper for such Gas consumed on that Day the Unauthorized Overrun Gas charge set out in the Table of Charges.

**4.5 Maximum Hourly Quantities**

FortisBC Energy will not be obliged to receive or deliver in one Hour more than 5% of the quantity of Gas that the Shipper is authorized to receive on any Day.

**4.6 Gas Pressure**

Where specifically requested by the Shipper, FortisBC Energy may agree to deliver Gas to the Shipper at the Delivery Point at a minimum pressure specified in the Shipper's Transportation Agreement. The Shipper will reimburse FortisBC Energy for costs it reasonably incurs in maintaining such minimum pressure above that set out in the General Terms and Conditions of FortisBC Energy. FortisBC Energy's ability to maintain a minimum pressure at the Delivery Point is subject to FortisBC Energy receiving Gas at the Interconnection Point at the pressure specified in the Transporter's Service Terms.

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## 5. Table of Charges

### 5.1 Charges

In respect of all quantities of Gas delivered to the Delivery Point pursuant to this Rate Schedule and the Transportation Agreement, the Shipper will pay to FortisBC Energy all of the charges set out in the Table of Charges whether or not the Shipper is a member of a Group. The Shipper Agent may elect to pay to FortisBC Energy the charges for the Backstopping Gas and the Balancing Gas taken, any Unauthorized Overrun Gas taken, and any Replacement Gas incurred for members of its Group. In the event the Shipper Agent fails to make an election or pay these charges for and on behalf of the Shippers which are members of its Group, FortisBC Energy will bill the Shippers directly.

## 6. Unauthorized Use

### 6.1 Charges for Unauthorized Service

On any Day a Shipper takes Unauthorized Overrun Gas and/or Unauthorized Transportation Service, the Shipper will pay to FortisBC Energy the unauthorized overrun charge set out in the Table of Charges. The Shipper Agent may elect to pay these charges for the members of its Group. In the event the Shipper Agent fails to make an election or does not pay these charges for and on behalf of the Shippers which are members of its Group, FortisBC Energy will bill the Shippers directly.

### 6.2 Payments Not License

Payments made to FortisBC Energy for Unauthorized Overrun Gas or Unauthorized Transportation Service neither give the right to take Unauthorized Overrun Gas or Unauthorized Transportation Service, nor exclude or limit any other remedies available to FortisBC Energy for the taking or use of Unauthorized Overrun Gas or Unauthorized Transportation Service.

### 6.3 Demand Surcharge

If the Shipper is a member of a Group which includes a Shipper under Rate Schedules 22, 22A or 22B, then the Group and its members will be subject to demand surcharges under Section 7 (Unauthorized Use) of Rate Schedule 22.

## 7. Nomination

### 7.1 Requested Quantity

The Shipper or Shipper Agent will provide notice to FortisBC Energy on the Web Information and Nomination System ("WINS") or other method approved by FortisBC Energy, prior to the Timely Nomination Cycle on each Day (or such other time as may be specified from time to time by FortisBC Energy) such information as may be requested by FortisBC Energy, which will include, but is not limited to, the Shipper or Shipper Agent's Requested Quantity for the Day commencing in approximately 24 hours and/or subsequent Day(s). If the Shipper or Shipper Agent does not notify FortisBC Energy in accordance with the foregoing, then the Shipper or Shipper Agent's Requested Quantity for the Day commencing in approximately 24 hours will be deemed to be zero, subject to Section 7.2 (Adjustment of Requested Quantity). The Shipper or Shipper Agent is required to provide their best estimate of the quantity of Gas the Shipper(s) will actually consume on such Day.

### 7.2 Adjustment of Requested Quantity

The Shipper or Shipper Agent will provide notice to FortisBC Energy on the WINS, or other method approved by FortisBC Energy, of adjustments to the Requested Quantity for the Day commencing in approximately 24 hours. Adjustments to the Requested Quantity must adhere to the elapsed pro-rata practices of the applicable Transporter(s). FortisBC Energy may adjust, in consultation with the Shipper, the Shipper's Requested Quantity, described in Section 7.1 (Requested Quantity), when in the reasonable opinion of FortisBC Energy such modification is required in order to limit the build-up of inventory account quantities.

### 7.3 Request to Transporter

FortisBC Energy will provide to the Transporter the Shipper's Requested Quantity to be adjusted as set out in Section 7.2 (Adjustment of Requested Quantity).

### 7.4 Delivery to Interconnection Point

The Shipper will cause to be delivered to the Interconnection Point on each Day a quantity of Gas at least equal to the Shipper's Requested Quantity, adjusted as set out in Section 7.2 (Adjustment of Requested Quantity).

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**7.5 Failure to Deliver to Interconnection Point**

If on any Day the Authorized Quantity from the Transporter is less than the quantity requested from the Transporter pursuant to Section 7.3 (Request to Transporter), then in addition to curtailments permitted under Section 4 (Transportation) FortisBC Energy may, in its discretion, interrupt or curtail Service hereunder to the lesser of such Authorized Quantity or the Firm DTQ. Alternatively, FortisBC Energy may deliver additional Gas to the Shipper at the Interconnection Point and charge the Shipper Backstopping Gas as set out in the Table of Charges.

**7.6 Authorized Quantity**

FortisBC Energy will notify the Shipper or the Shipper Agent on WINS or other method approved by FortisBC Energy if the Authorized Quantity is less than the Requested Quantity.

**7.7 Determination of DTQ**

Subject to Section 3 (Conditions of Service) and 12.2 (Automatic Renewal), the Shipper will provide to FortisBC Energy by fax or other method approved by FortisBC Energy 30 Days prior to the Commencement Day of each Contract Year the Shipper's Firm DTQ for the following Contract Year. If the Shipper does not provide FortisBC Energy notice in accordance with this Section 7.7 (Determination of DTQ), then the Shipper's Firm DTQ for the following Contract Year will be deemed to be the same as the current Contract Year. If a Shipper appoints a Shipper Agent to act on its behalf, the Shipper authorizes the Shipper Agent to determine the DTQ set out in the Transportation Agreement, for each Contract Year. This authorization will remain in effect for the term of the Transportation Agreement or for so long as the Shipper Agent acts as agent for the Shipper, whichever period is shorter.

**8. Gas Balancing**

**8.1 Gas Balancing**

Gas balancing hereunder is intended for matching day to day imbalances that cannot be reasonably forecast by the Shipper. Subject to all the terms of this Rate Schedule, FortisBC Energy will on each Day balance for the Shipper at the Interconnection Point the difference between the Shipper's Authorized Quantity under the Transportation Agreement and its actual consumption of Gas.

**8.2 Provision of Gas Balancing**

When on any Day the Shipper requires Gas for balancing, FortisBC Energy will:

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- (a) allow the Shipper to use up to the amount available in the Shipper's inventory account pursuant to Section 8.4 (Adjustments to Inventory);
- (b) for quantities of Gas above the amount available in the Shipper's inventory, sell to the Shipper at the commodity charge set out in the Table of Charges; and
- (c) for quantities of Gas needed to balance actual consumption that exceeds the greater of 100 Gigajoules or 10 percent of the Shipper's Authorized Quantity, charge the Shipper for Balancing Gas at the applicable rate(s) as set out in the Table of Charges.

### 8.3 **Curtailement of Gas Balancing**

FortisBC Energy may for any reason and for any length of time, interrupt or curtail Gas balancing under this Rate Schedule.

### 8.4 **Adjustments to Inventory**

When on any Day the Shipper delivers more Gas to the Interconnection Point than its actual consumption, except for Gas purchased by FortisBC Energy under Section 21.8 (Shipper's Gas), FortisBC Energy will maintain an inventory account for the Shipper and will increase the balance in the account by the excess amount received. FortisBC Energy reserves the right to limit Gas quantities maintained in the Shipper's inventory account and will from time to time, at its discretion and in consultation with the Shipper, return excess inventory at no charge to the Shipper; this will not relieve the Shipper from its obligation to provide accurate nominations pursuant to Section 7.1 (Requested Quantity).

### 8.5 **Imbalance Following Termination**

If FortisBC Energy has received a quantity of Gas in excess of the quantity delivered to the Shipper during the term of a Transportation Agreement, then the Shipper may request the excess quantity be returned within 90 Days following termination of the Transportation Agreement.

### 8.6 **Balancing of Peaking Gas**

Balancing of Peaking Gas is described in Section 10.6 (Return of Peaking Gas Quantity).



## 9. Group Nominations and Balancing

### 9.1 Group Nominations and Balancing

If a Shipper appoints a Shipper Agent and becomes a member of a Group and if the Shipper and Shipper Agent have agreed to execute or have executed a Shipper Agent Agreement, and if the members of the Group are in the same Service Area of FortisBC Energy and receive Service under a transportation Rate Schedule, the Shipper Agent will nominate and balance on behalf of all members of the Group on an aggregate basis pursuant to Sections 7 (Nomination), 8 (Gas Balancing), 10 (Peaking Gas Service) and 11 (Access to East Kootenay Exchange (EKE) Interconnection Point) of this Rate Schedule, as modified by this Section, and the Shipper Agent will be the agent for each of the members of a Group for the purposes of any and all matters set out in Sections 7 (Nomination), 8 (Gas Balancing), 10 (Peaking Gas Service) and 11 (Access to East Kootenay Exchange (EKE) Interconnection Point). The Shipper Agent may also elect pursuant to the Shipper Agent Agreement, to pay some or all of the charges specified in Sections 5.1 (Charges) and 6.1 (Charges for Unauthorized Service) for and on behalf of the Shippers in its Group. The Shipper acknowledges and agrees that FortisBC Energy may rely, for the purpose of payment allocations, on written notification from the Shipper Agent of such election as a basis for the Shipper Agent's authority to act on behalf of Shipper. Where the Shipper Agent fails to execute a Shipper Agent Agreement, the Shipper will be deemed to be and treated by FortisBC Energy as an individual Group of one Shipper, except for the purposes of Sections 9.4 (Notices To and From Shipper Agents) and 13.1 (Statements to be Provided) hereunder, and will be deemed to have agreed to purchase Gas from FortisBC Energy pursuant to the applicable transportation Rate Schedule and will accordingly be responsible for the payment of all charges thereunder, including any and all Balancing Gas and Unauthorized Overrun Gas charges attributable to that Shipper.

### 9.2 Determination of Charges

The charges for Backstopping Gas, Balancing Gas, Unauthorized Overrun Gas and Replacement Gas set out in the Table of Charges, and demand surcharges as set out in the Rate Schedule 22 Table of Charges, will be determined based on the quantities transported on behalf of all members of the Group on an aggregate basis.

### 9.3 Security

FortisBC Energy may require the Shipper Agent to provide security, as set out in Section 3.2 (Security), with necessary changes, for the performance of the Shipper Agent's obligations under the Shipper Agent Agreement.

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**9.4 Notices To and From Shipper Agents**

If the Shipper is a member of a Group then:

- (a) communications regarding curtailments or interruptions arising from Gas supply constraints and limitations, quantities of Gas requested and quantities of Gas authorized will be between the Shipper Agent for the Group and FortisBC Energy; and
- (b) notices from FortisBC Energy with respect to interruption or curtailment pursuant to Section 4.3 (Notice of Curtailment) arising from Gas supply constraints or limitations will be to the Shipper Agent for the Group and will specify the quantity of Gas to which the Group is curtailed and the time at which such curtailment is to be made; it will be the responsibility of the Shipper Agent to notify Shippers which are members of the Group of interruptions or curtailments.

**10. Peaking Gas Service**

**10.1 Applicability**

In each Contract Year, Peaking Gas Service is available only to firm Non-Bypass Shippers for Gas which is delivered to a Delivery Point in the Mainland and Vancouver Island Service Area and for which the Transportation Agreement was in effect on the 1<sup>st</sup> Day of November of the subject Contract Year.

**10.2 15-Day Maximum**

A Non-Bypass Shipper may request Peaking Gas for a maximum of 15 Days during each Contract Year. Any Day for which any portion of the Shipper's Peaking Gas Quantity is requested and authorized will be considered one of the 15 Days of Peaking Gas entitlement even if the quantity of authorized Peaking Gas is not used or is only partially used.

**10.3 Peak Day Demand**

For the purposes of determining the Peaking Gas Quantity available to a Non-Bypass Shipper on a Day, the Peak Day Demand of a Rate Schedule 26 Shipper is the DTQ set out in the Shipper's Transportation Agreement.

10.4 **Peaking Gas Quantity**

The quantity of Peaking Gas available on a Day to a Non-Bypass Shipper ("Peaking Gas Quantity") will be a percentage of that Shipper's Peak Day Demand. The Peaking Gas Quantity available to firm Non-Bypass Shippers for the next Contract Year will be determined by FortisBC Energy, and FortisBC Energy will in writing notify each Non-Bypass Shipper of that Shipper's Peaking Gas Quantity, at least 30 Days prior to the commencement of each Contract Year. The Peaking Gas Quantity available to a Non-Bypass Shipper in a Contract Year will be:

- (a) 
$$\frac{\text{Total Non-Bypass Transport Demand}}{\text{Forecast Sales Demand} + \text{Non-Bypass Transport Demand}} = \text{Peaking Gas Factor}$$
- (b) 
$$\text{Peaking Gas Factor} * \text{Southern Crossing Pipeline ("SCP") Peaking Gas} = \text{Non-Bypass Transport Volume}$$
- (c) 
$$\frac{\text{Non-Bypass Transport Volume}}{\text{Non-Bypass Transport Demand}} = \text{Peaking Gas Percentage}$$
- (d) 
$$\text{Peaking Gas Percentage} * \text{a Non-Bypass Shipper's Peak Day Demand} = \text{Peaking Gas Quantity}$$

Where:

"Non-Bypass Transport Demand" is the aggregate Peak Day Demand of all Non-Bypass Shippers for the Contract Year commencing the next November 1<sup>st</sup>; "Forecast Sales Demand" is the FortisBC Energy forecast of the aggregate peak day demand for the Year commencing the next November 1<sup>st</sup> for all Gas sales Customers of FortisBC Energy excluding those in the Fort Nelson Service Area; and "SCP Peaking Gas" is the quantity of Peaking Gas available to FortisBC Energy in the Year commencing the next Contract Year.

10.5 **Requested Peaking Gas Quantity**

A Shipper will notify FortisBC Energy of its Requested Peaking Gas Quantity pursuant to nomination procedures described in Section 7.1 (Requested Quantity) of this Rate Schedule except as otherwise described in Sections 10.5(a) and 10.5(b) below. The Requested Peaking Gas Quantity must be explicitly stated on the nomination and may be less than but may not exceed the Shipper's Peaking Gas Quantity described in Section 10.4 (Peaking Gas Quantity).

- (a) **Prior Day Notices of Curtailment** - On a Day when FortisBC Energy has given notice of curtailment for the next or subsequent Day, a Shipper may nominate the Requested Peaking Gas Quantity in WINS for the next Day prior to the evening nomination cycle on the Day preceding the Day for which notice of curtailment has been given.

- (b) **Same Day Notices of Curtailment** - On a Day when FortisBC Energy has given notice of curtailment to be effective during that Day, a Shipper may nominate the Requested Peaking Gas Quantity in WINS up until one Hour after the notice of curtailment has been given by FortisBC Energy; provided that FortisBC Energy has usable nomination cycles available during that Day with the Transporter(s). Requests for Requested Peaking Gas Quantity received after the time when FortisBC Energy has usable nomination cycles available during that Day will be authorized only on an as available basis. If notice of Requested Peaking Gas Quantity is given to FortisBC Energy during the Day for which Peaking Gas is being requested then the Peaking Gas Quantity available to Shipper on that Day will be reduced consistent with the elapsed pro-rata practices of the applicable Transporter(s).
- (c) **Non-Curtailment Days** - On Days for which FortisBC Energy has not given notice of curtailment, requests for Peaking Gas Quantity will be made in accordance with the provisions described in Section 7.1 (Requested Quantity).

#### 10.6 **Return of Peaking Gas Quantity**

A Shipper may view its Peaking Gas Quantity authorized, returned, and not yet returned via an inventory report in the WINS.. Peaking Gas must be returned to FortisBC Energy within 6 Business Days of the Day in respect of which it was authorized. The Shipper must nominate the returned Peaking Gas Quantity in the WINS described in Section 7.1 (Requested Quantity). Peaking Gas returned will be applied against the earliest Peaking Gas Quantity authorized and not yet returned. The Shipper has the option to elect to return Peaking Gas from the Peaking Gas inventory which is kept for this purpose. If Peaking Gas is not returned to FortisBC Energy within 6 Business Days of the Day in respect of which it was authorized, FortisBC Energy will provide the Shipper with an equivalent quantity of Replacement Gas. The charge for Replacement Gas will be as set out in the Table of Charges.

#### 10.7 **Last Gas Ordered**

Peaking Gas Quantity will be considered the last Gas ordered and taken during the Day.

#### 10.8 **Transport of Peaking Gas Quantity**

Peaking Gas Quantity will be deemed to be provided to the Shipper at the Interconnection Point, and the volumes consumed by the Shipper will be included in the Shipper's daily transport volume at the Interconnection Point for the purposes of calculating applicable transport charges.

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## 11. Access to East Kootenay Exchange (EKE) Interconnection Point

### 11.1 Firm EKE Receipt Service

- (a) **Applicability** - Firm receipt Service access from the EKE Interconnection Point ("Firm EKE Receipt Service") is available to Non-Bypass Shippers for Gas which is delivered to a Delivery Point in the Inland area and for which the Shipper has a Transportation Agreement which is effective on the August 1<sup>st</sup> preceding the subject Contract Year ("Inland Non-Bypass Shippers").
- (b) **Availability** - The total quantity of Firm EKE Receipt Service available in aggregate to Inland Non-Bypass Shippers ("EKE Transport Volume") will be determined by FortisBC Energy for each Contract Year. "Forecast Inland Sales Demand" is the FortisBC Energy forecast of the aggregate peak day demand for the Year commencing the next November 1<sup>st</sup> for all firm Gas sales Customers of FortisBC Energy in the Inland area; and "ITS Constraint" is the capacity of the FortisBC Energy Interior transmission system available to flow Gas from Oliver in a northbound direction during periods of peak demand.
- (c) **Election** - Annual elections for Firm EKE Receipt Service for the next Contract Year must be submitted in writing by Shippers to FortisBC Energy within 5 Business Days of the date on which FortisBC Energy provides the allocated EKE Transport Volume. The election must indicate the quantity of Firm EKE Receipt Service requested. The quantity requested must not exceed the Shipper's Peak Day Demand. FortisBC Energy will pro-rate the Firm EKE Receipt Service requests based on the requested quantities if the aggregate Firm EKE Receipt Service requests exceed the available EKE Transport Volume.

### 11.2 Interruptible EKE Receipt Service

- (a) **Applicability** - Interruptible receipt Service access to the EKE Interconnection Point ("Interruptible EKE Receipt Service") is available only to firm Non-Bypass Shippers for which Gas is delivered to a Delivery Point in the Inland area and Lower Mainland area ("Eligible Interruptible Non-Bypass Shippers").
- (b) **Quantity Available** - The quantity of Interruptible EKE Receipt Service available to Eligible Interruptible Non-Bypass Shippers will be determined by FortisBC Energy. In determining the quantity of Interruptible EKE Receipt Service available FortisBC Energy will take into account system delivery constraints including the requirement to flow Gas from the facilities of Westcoast Energy Inc. into the Inland area, and the quantity of Firm EKE Receipt Service not utilized. The quantity of Interruptible EKE Receipt Service available to Eligible Interruptible Non-Bypass Shippers will be a pro-rata portion of the aggregate available demands of all firm Gas sales Customers and all firm transportation Customers in the Inland and Lower Mainland areas.

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- (c) **Maximum Nomination** - A Shipper may not request Interruptible EKE Receipt Service in excess of the Shipper's Peak Day Demand less the Firm EKE Receipt Service of the Shipper. If FortisBC Energy receives requests for Interruptible EKE Receipt Service in excess of the aggregate available Interruptible EKE Receipt Service available for the Day (as determined in Section 11.2(b) (Quantity Available), FortisBC Energy will apportion the available Interruptible EKE Receipt Service on a pro-rata basis of requested Interruptible EKE Receipt Service.
- (d) **Incremental Costs** - Shippers will be responsible for incremental costs associated with transportation on the facilities of Westcoast Energy Inc. from the Inland area to the Lower Mainland area (if applicable).

## 12. Term of Transportation Agreement

### 12.1 Term

The initial term of the Transportation Agreement will begin on the Commencement Date and will expire at 7:00 a.m. Pacific Standard Time on the next November 1<sup>st</sup>, provided that if the foregoing results in an initial term of less than one Year, then the initial term will instead expire at the end of one further Contract Year.

### 12.2 Automatic Renewal

Except as specified in the Transportation Agreement, the term of the Transportation Agreement will continue from Year to Year after the expiry of the initial term unless cancelled by either FortisBC Energy or the Shipper, subject to Section 3.3, (Warning if Switching from Interruptible Transportation Service or Interruptible Sales to Firm Transportation Service or Sales) upon not less than 2 months notice prior to the end of the Contract Year then in effect.

### 12.3 Early Termination

The term of the Transportation Agreement is subject to early termination in accordance with Section 18 (Default or Bankruptcy).

### 12.4 Survival of Covenants

Upon the termination of the Transportation Agreement, whether pursuant to Section 18 (Default or Bankruptcy) or otherwise:

- (a) all claims, causes of action or other outstanding obligations remaining or being unfulfilled as at the date of termination; and

- (b) all of the provisions in this Rate Schedule and in the Transportation Agreement relating to the obligation of any of the parties to account to or indemnify the other and to pay to the other any monies owing as at the date of termination in connection with the Transportation Agreement,

will survive such termination.

### **13. Statements and Payments**

#### **13.1 Statements to be Provided**

FortisBC Energy will, on or about the 15<sup>th</sup> day of each Month, deliver to the Shipper, a statement for the preceding Month showing the Gas quantities delivered to the Shipper and the amount due. If the Shipper is a member of a Group then the statement and the calculation of the amount due from the Shipper will be based on information supplied by the Shipper Agent, or based on other information available to FortisBC Energy, as set out in the Shipper Agent Agreement. FortisBC Energy will, on or about the 45<sup>th</sup> day after the end of a Contract Year, deliver to the Shipper a separate statement for the preceding Contract Year showing the amount required from the Shipper in respect of any indemnity due under this Rate Schedule or a Transportation Agreement. Any errors in any statement will be promptly reported to the other party as provided hereunder, and statements will be final and binding unless questioned within one Year after the date of the statement.

#### **13.2 Payment and Late Payment Charge**

Payment for the full amount of the statement, including federal, provincial and municipal taxes or fees applicable thereon, will be made to FortisBC Energy at its Vancouver, British Columbia office, or such other place in Canada as it will designate, on or before the 1<sup>st</sup> Business Day after the 21<sup>st</sup> calendar day following the billing date. If the Shipper fails or neglects to make any payment required under this Rate Schedule, or any portion thereof, to FortisBC Energy when due, FortisBC Energy will include in the next bill to the Shipper a late payment charge of 1.5% per month (19.56% per annum) on the outstanding amount.

#### **13.3 Examination of Records**

Each of FortisBC Energy and the Shipper will have the right to examine at reasonable times the books, records and charts of the other to the extent necessary to verify the accuracy of any statement, charge, computation or demand made pursuant to any provisions of this Rate Schedule or the Transportation Agreement.

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## 14. Quality

### 14.1 Minimum Standards

All Gas delivered to the Interconnection Point by or on behalf of the Shipper and all Gas delivered to the Delivery Point will conform to the quality specifications set out in the Transporter's Service Terms.

## 15. Measuring Equipment

### 15.1 Facilities and Equipment

FortisBC Energy will install, maintain and operate at the Delivery Point such metering and communications facilities and equipment as FortisBC Energy determines are necessary or desirable for measuring the quantity of Gas delivered pursuant to this Rate Schedule to the Shipper and the Shipper will permit FortisBC Energy, without cost to FortisBC Energy, to use the Shipper's communications lines and power for the purpose of installing, maintaining and operating the measuring equipment of FortisBC Energy. Communication facilities and equipment will be installed at the cost of the Shipper.

### 15.2 Measuring Site

If FortisBC Energy reasonably determines that it is necessary to install the facilities and equipment referred to in Section 15.1 (Facilities and Equipment) on the Shipper's property, the Shipper will, without charge, provide a suitable site along with utilities and enclosures for the installation of the facilities and equipment of FortisBC Energy. FortisBC Energy will at all times have clear access to the site and to all of its facilities and equipment. All facilities and equipment installed by FortisBC Energy on the Shipper's property will remain the property of FortisBC Energy and may be removed by FortisBC Energy upon termination of the Transportation Agreement.

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**15.3 Calibration and Test of Measuring Equipment**

The accuracy of the measuring equipment of FortisBC Energy will be verified by standard tests and methods at regular intervals and at other times at the initiative of FortisBC Energy or upon the reasonable request of the Shipper. Notice of the time and nature of each test conducted in response to communications with or at the request of the Shipper will be given by FortisBC Energy to the Shipper sufficiently in advance to permit a representative of the Shipper to be present. If during a test the measuring equipment is found to be registering inaccurately, it will be adjusted at once to read as accurately as possible. The results of each test and adjustment, if any, made by FortisBC Energy, whether or not the Shipper is present for such test, will be accepted until the next test. All tests of such measuring equipment of FortisBC Energy will be made at the expense of FortisBC Energy, except that the Shipper will bear the expense of tests made at its request if the measuring equipment is found to be inaccurate by an amount equal to 2% or less.

**15.4 Inaccuracy Exceeding 2%**

If upon any test the measuring equipment is found to be inaccurate by an amount exceeding 2%, any previous readings of such equipment will be corrected to zero error for any period during which it is definitely known or is agreed upon that the error existed. If the period is not definitely known or is not agreed upon, such correction will be for a period covering the last half of the time elapsed since the date of the last test. Under no circumstances will an adjustment be made for a period of more than the preceding 12 months.

**15.5 Correction of Measuring Errors**

If the measuring equipment is out of service or out of repair so that the quantity of Gas delivered cannot be correctly determined by the reading thereof, the Gas delivered during the period such measuring equipment is out of service or out of repair will be estimated on the basis of the best available data, using the first of the following methods which is feasible:

- (c) by correcting the error if the percentage of error is ascertained by calibration test or mathematical calculation;
- (d) by using the registration of any check measuring equipment if installed and accurately registering; and
- (e) by estimating the quantity of Gas delivered to the Shipper during the preceding periods under similar conditions when the meter was registering accurately.

**15.6 Shipper's Equipment**

The Shipper may at its own expense install, maintain and operate its own measuring equipment for the purposes of monitoring or checking the measuring equipment of FortisBC Energy, provided that the Shipper will install such equipment so as not to interfere with the operation of the measuring equipment of FortisBC Energy.

**15.7 Right to be Present**

FortisBC Energy and the Shipper will have the right to inspect all equipment installed or furnished by the other and the charts and other measurement or test data of the other at all times during business hours, and to be present at the time of any installing, testing, cleaning, changing, repairing, calibrating or adjusting done in connection with the measuring equipment of the other party, but all such activities will be performed by the party furnishing the measuring equipment.

**15.8 Preservation of Records**

Both parties will cause to be preserved each test datum, chart and other record of Gas measurement for a period of 2 years.

**16. Measurement**

**16.1 Unit of Volume**

The unit of volume of Gas for all purposes hereunder will be 1 cubic metre at a temperature of 15° Celsius and an absolute pressure of 101.325 kilopascals.

**16.2 Determination of Volume**

Gas delivered hereunder will be metered using metering apparatus approved by Measurement Canada and the determination of standard volumes delivered hereunder will be in accordance with terms and conditions pursuant to the *Electricity and Gas Inspection Act* of Canada.

**16.3 Conversion to Energy Units**

In accordance with the *Electricity and Gas Inspection Act* of Canada, volumes of Gas delivered each Day will be converted to energy units by multiplying the standard volume by the Heat Content of each unit of Gas. Volumes will be specified in 10<sup>3</sup>m<sup>3</sup> rounded to two decimal places and energy will be specified in Gigajoules rounded to the nearest Gigajoule.

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## 17. Representations, Warranties and Covenants

### 17.1 Title

The Shipper represents and warrants to FortisBC Energy that the Shipper will have good title to all Gas to be delivered to FortisBC Energy at the Interconnection Point on behalf of the Shipper from Suppliers other than FortisBC Energy, free and clear of all liens, encumbrances and claims.

### 17.2 Title Not That of FortisBC Energy

FortisBC Energy agrees that title to all Gas transported pursuant to the Transportation Agreement remains with the Shipper.

### 17.3 Acknowledgement

The Shipper acknowledges that the Gas transported under the Transportation Agreement will be commingled with Gas within the FortisBC Energy System.

## 18. Default or Bankruptcy

### 18.1 Default

If the Shipper at any time fails or neglects:

- (a) to make any payment due to FortisBC Energy or to any other person under this Rate Schedule or the Transportation Agreement within 30 days after payment is due; or
- (b) to correct any default of any of the other terms, covenants, agreements, conditions or obligations imposed upon it under this Rate Schedule or the Transportation Agreement, within 30 days after FortisBC Energy gives to the Shipper notice of such default or, in the case of a default that cannot with due diligence be corrected within a period of 30 days, the Shipper fails to proceed promptly after the giving of such notice with due diligence to correct the same and thereafter to prosecute the correcting of such default with all due diligence,

then FortisBC Energy may in addition to any other remedy that it has, including the rights of FortisBC Energy set out in Sections 4.4(Default Regarding Curtailment), and 6 (Unauthorized Use), at its option and without liability therefore:

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- (c) suspend further transportation Service to the Shipper and may refuse to deliver Gas to the Shipper until the default has been fully remedied, and no such suspension or refusal will relieve the Shipper from any obligation under this Rate Schedule or the Transportation Agreement; or
- (d) terminate the Transportation Agreement, and no such termination of the Transportation Agreement pursuant hereto will exclude the right of FortisBC Energy to collect any amount due to it from the Shipper for what would otherwise have been the remainder of the term of the Transportation Agreement.

## 18.2 **Bankruptcy or Insolvency**

If the Shipper becomes bankrupt or insolvent or commits or suffers an act of bankruptcy or insolvency or a receiver is appointed pursuant to a statute or under a debt instrument or the Shipper seeks protection from the demands of its creditors pursuant to any legislation enacted for that purpose, FortisBC Energy will have the right, at its sole discretion, to terminate the Transportation Agreement by giving notice in writing to the Shipper and thereupon FortisBC Energy may cease further delivery of Gas to the Shipper and the amount then outstanding for Gas provided under the Transportation Agreement will immediately be due and payable by the Shipper.

## 19. **Notice**

### 19.1 **Notice**

Any notice, request, statement or bill that is required to be given or that may be given under this Rate Schedule or under the Transportation Agreement will, unless otherwise specified, be in writing and will be considered as fully delivered when mailed, personally delivered or sent by fax or other method approved by FortisBC Energy to the other in accordance with the following:

If to FortisBC Energy

FORTISBC ENERGY INC.

MAILING ADDRESS:

16705 Fraser Highway  
Surrey, B.C.  
V4N 0E8

BILLING AND PAYMENT:

Attention: Industrial Billing  
Telephone: 1-855-873-8773  
Email: [industrial.billing@fortisbc.com](mailto:industrial.billing@fortisbc.com)  
Fax: (888) 224-2710

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## 20. Indemnity and Limitation on Liability

### 20.1 Limitation on Liability

FortisBC Energy, its employees, contractors or agents are not responsible or liable for any loss or damages for or on account of any interruption or curtailment of transportation Service permitted under the General Terms and Conditions of FortisBC Energy or this Rate Schedule.

### 20.2 Indemnity

The Shipper will indemnify and hold harmless each FortisBC Energy, its employees, contractors and agents from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from or out of each of the following:

- (a) any defect in title to any Gas delivered to FortisBC Energy at the Interconnection Point on behalf of the Shipper from Suppliers other than FortisBC Energy, or arising from any charges that are applicable to the Gas delivered to FortisBC Energy;
- (b) Municipal Operating Fees not otherwise collected by FortisBC Energy under the Table of Charges;
- (c) nominations made in accordance with Sections 7 (Nomination) or 9 (Group Nominations and Balancing) of this Rate Schedule by FortisBC Energy to the Transporter with respect to the Shipper's transportation volumes, whether or not the Shipper is a member of a Group;
- (d) Gas delivered by the Transporter or Shipper to FortisBC Energy failing to meet the quality specifications set out in Section 14.1 (Minimum Standards) of this Rate Schedule; and
- (e) all federal, provincial, municipal taxes (or payments made in lieu thereof) and royalties, whether payable on the delivery of Gas to FortisBC Energy by the Shipper or on the delivery of Gas to the Shipper by FortisBC Energy, or on any other Service provided by FortisBC Energy to the Shipper.

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### 20.3 **Principal Obligant**

If the Shipper is a member of a Group, the obligations of each of the Shipper Agent (acting for and on behalf of the Shippers that are members of the Group) and the Shipper (in the event of the failure of the Shipper Agent to make such payments and limited to the charges related to that Shipper) to pay to, or to the order of, FortisBC Energy the charges for Backstopping Gas, Balancing Gas, Replacement Gas, Unauthorized Overrun Gas charges set out in the Table of Charges, and demand surcharges set out in the Rate Schedule 22 Table of Charges, are those of principal obligant and not of surety and are independent of the respective obligations of the Shipper Agent and the Shipper towards each other pursuant to the Shipper Agent Agreement.

## 21. **Force Majeure**

### 21.1 **Force Majeure**

Subject to the other provisions of this Section 21 (Force Majeure), if either party is unable or fails by reason of Force Majeure to perform in whole or in part any obligation or covenant set out in this Rate Schedule under which Service is rendered or in the Transportation Agreement, the obligations of both FortisBC Energy and the Shipper will be suspended to the extent necessary for the period of the Force Majeure condition.

### 21.2 **Curtailement Notice**

If FortisBC Energy claims suspension pursuant to this Section 21 (Force Majeure), FortisBC Energy will be deemed to have issued to the Shipper a notice of curtailment.

### 21.3 **Exceptions**

Neither party will be entitled to the benefit of the provisions of Section 21.1 (Force Majeure) under any of the following circumstances:

- (a) to the extent that the failure was caused by the negligence or contributory negligence of the party claiming suspension;
- (b) to the extent that the failure was caused by the party claiming suspension having failed to diligently attempt to remedy the condition and to resume the performance of the covenants or obligations with reasonable dispatch; or

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- (c) unless as soon as possible after the happening of the occurrence relied on or as soon as possible after determining that the occurrence was in the nature of Force Majeure and would affect the claiming party's ability to observe or perform any of its covenants or obligations under the Rate Schedule or the Transportation Agreement, the party claiming suspension will have given to the other party notice to the effect that the party is unable by reason of Force Majeure (the nature of which will be specified) to perform the particular covenants or obligations.

**21.4 Notice to Resume**

The party claiming suspension will likewise give notice, as soon as possible after the Force Majeure condition has been remedied, to the effect that it has been remedied and that the party has resumed, or is then in a position to resume, the performance of the covenants or obligations.

**21.5 Settlement of Labour Disputes**

Notwithstanding any of the provisions of this Section 21 (Force Majeure), the settlement of labour disputes or industrial disturbances will be entirely within the discretion of the particular party involved and the party may make settlement of it at the time and on terms and conditions as it may deem to be advisable and no delay in making settlement will deprive the party of the benefit of Section 21.1 (Force Majeure).

**21.6 No Exemption for Payments**

Notwithstanding any of the provisions of this Section 21 (Force Majeure), Force Majeure will not relieve or release either party from its obligations to make payments to the other.

**21.7 Periodic Repair by FortisBC Energy**

FortisBC Energy may temporarily shut off the delivery of Gas for the purpose of repairing or replacing a portion of the FortisBC Energy System or its equipment and FortisBC Energy will make reasonable efforts to give the Shipper as much notice as possible with respect to such interruption, not to be less than 8 hours prior notice except when prevented by Force Majeure. FortisBC Energy will make reasonable efforts to schedule repairs or replacement to minimize interruption or curtailment of transportation Service to the Shipper, and to restore Service as quickly as possible.



**21.8 Shipper's Gas**

If FortisBC Energy curtails or interrupts transportation of Gas by reason of Force Majeure the Shipper will make its supply of Gas available to FortisBC Energy, to the extent required by FortisBC Energy, to maintain Service priority to those customers or classes of customers which FortisBC Energy determines should be served. FortisBC Energy, in its sole discretion, will either increase the balance in the Shipper's inventory account by the amount taken by FortisBC Energy and return an equivalent quantity of Gas to the Shipper as soon as reasonable, or pay the Shipper an amount equal to either FortisBC Energy's average Gas cost, or the Shipper's average Gas cost, for the Day(s) during which such Gas was taken, whichever Gas cost the Shipper, in its sole discretion, elects.

**21.9 Alteration of Facilities**

The Shipper will pay to FortisBC Energy all reasonable costs associated with the alteration of facilities made at the discretion of FortisBC Energy to measure quantities reduced by reason of Force Majeure claimed by the Shipper and to restore such facilities after the Force Majeure condition ends.

**22. Arbitration**

**22.1 Arbitration**

Any dispute between the parties arising from this Rate Schedule or the Transportation Agreement will be resolved by a single arbitrator pursuant to the *Arbitration Act* of British Columbia or successor legislation, save as expressly provided herein.

**22.2 Demand for Arbitration**

Either party may commence arbitration proceedings by sending to the other party a demand for arbitration setting out the nature of the dispute.

**22.3 Arbitrator**

The parties will have 10 days from receipt of the demand referred to in Section 22.2 (Demand for Arbitration) of this Rate Schedule to agree upon the arbitrator, failing which either party may apply to the Supreme Court of British Columbia to select the arbitrator. The arbitrator must be sufficiently qualified by education and training to decide the particular questions in dispute. Unless otherwise agreed, the arbitrator may not be a past or present employee, officer or director of any of the parties or their respective successors or affiliates, any customer or supplier of the Shipper or FortisBC Energy.

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#### 22.4 Commencement and Decision

The arbitrator will proceed immediately to hear and determine the matter in dispute and will render a written decision, signed by the arbitrator, within 45 days after the appointment, subject to any reasonable delay due to unforeseen circumstances. Notwithstanding the foregoing, if the arbitrator fails to render a decision within 60 days after the appointment then either party may elect to have a new arbitrator appointed in like manner as if none had previously been appointed.

#### 22.5 Decision

The decision of the arbitrator will be final and binding upon the parties and the parties will abide by the decision and perform the terms and conditions thereof.

### 23. Interpretation

#### 23.1 Interpretation

Except where the context requires otherwise or except as otherwise expressly provided, in this Rate Schedule or in a Transportation Agreement:

- (a) all references to a designated section are to the designated section of this Rate Schedule unless otherwise specifically stated;
- (b) the singular of any term includes the plural, and vice versa, and the use of any term is equally applicable to any gender and, where applicable, body corporate;
- (c) any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor to such entity;
- (d) all words, phrases and expressions used in this Rate Schedule or in a Transportation Agreement that have a common usage in the gas industry and that are not defined in the General Terms and Conditions of FortisBC Energy, the Definitions or in the Transportation Agreement have the meanings commonly ascribed thereto in the gas industry; and
- (e) the headings of the sections set out in this Rate Schedule or in the Transportation Agreement are for convenience of reference only and will not be considered in any interpretation of this Rate Schedule or the Transportation Agreement.

## **24. Miscellaneous**

### **24.1 Waiver**

No waiver by either FortisBC Energy or the Shipper of any default by the other in the performance of any of the provisions of this Rate Schedule or the Transportation Agreement will operate or be construed as a waiver of any other or future default or defaults, whether of a like or different character.

### **24.2 Enurement**

The Transportation Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns, including without limitation successors by merger, amalgamation or consolidation.

### **24.3 Assignment**

The Shipper will not assign the Transportation Agreement or any of its rights and obligations thereunder without the prior written consent of FortisBC Energy which consent will not be unreasonably withheld or delayed. No assignment will release the Shipper from its obligations under this Rate Schedule or under the Transportation Agreement that existed prior to the date on which the assignment takes effect. This provision applies to every proposed assignment by the Shipper.

### **24.4 Amendments to be in Writing**

Except as set out in this Rate Schedule, no amendment or variation of the Transportation Agreement will be effective or binding upon the parties unless such amendment or variation is set out in writing and duly executed by the parties.

### **24.5 Proper Law**

The Transportation Agreement will be construed and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

### **24.6 Time is of Essence**

Time is of the essence of this Rate Schedule, the Transportation Agreement and of the terms and conditions thereof.

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**24.7 Subject to Legislation**

Notwithstanding any other provision hereof, this Rate Schedule and the Transportation Agreement and the rights and obligations of FortisBC Energy and the Shipper under this Rate Schedule and the Transportation Agreement are subject to all present and future laws, rules, regulations and orders of any legislative body, governmental agency or duly constituted authority now or hereafter having jurisdiction over FortisBC Energy or the Shipper.

**24.8 Further Assurances**

Each of FortisBC Energy and the Shipper will, on demand by the other, execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other may reasonably require to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Rate Schedule and the Transportation Agreement and to assure the completion of the transactions contemplated hereby.

**24.9 Form of Payments**

All payments required to be made under statements and invoices rendered pursuant to this Rate Schedule or the Transportation Agreement will be made by wire transfer to, or cheque or bank cashier's cheque drawn on a Canadian chartered bank or trust company, payable in lawful money of Canada at par in immediately available funds in Vancouver, British Columbia.

**Table of Charges**

Mainland and  
Vancouver  
Island  
Service Area

**Transportation**

- |                                    |          |
|------------------------------------|----------|
| 1. Basic Charge per Month          | \$ 61.00 |
| 2. Delivery Charge per Gigajoule   | \$ 2.923 |
| 3. Administrative Charge per Month | \$ 39.00 |

**Sales**

**4. Unauthorized Overrun Gas Charges**

- |   |   |
|---|---|
| (a) Per Gigajoule on first 5 percent of specified quantity        | Sumas Daily Price <sup>1</sup>  |
| (b) Per Gigajoule on all Gas over 5 percent of specified quantity | The greater of \$20.00/GJ or 1.5 x the Sumas Daily Price <sup>1</sup> |

**5. Charge per Gigajoule of Balancing Service provided**

- |   |           |
|---|-----------|
| (a) Quantities of Gas less than 10% of the Rate Schedule 26 Authorized Quantity   |           |
| (i) between and including April 1 and October 31                                  | No charge |
| (ii) between and including November 1 and March 31                                | No charge |
| (b) Quantities of Gas over the greater of 100 Gigajoules or equal to or in excess |           |

of 10% or less than 20% of the Rate Schedule 26 Authorized Quantity	
(i) between and including April 1 and October 31	\$ 0.25
(ii) between and including November 1 and March 31	\$ 0.25
(c) Quantities of Gas over the greater of 100 Gigajoules or equal to or in excess of 20% of the Rate Schedule 26 Authorized Quantity	
(i) between and including April 1 and October 31	\$ 0.30
(ii) between and including November 1 and March 31	\$ 1.10
<b>6. Charge per Gigajoule of Balancing and Backstopping Gas</b>	Sumas Daily Price <sup>1</sup>
<b>7. Replacement Gas<sup>2</sup></b>	Sumas Daily Price <sup>1</sup> plus 20 Percent
<b>8. Rider 3 per Gigajoule</b>	\$ 0.018

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Interconnection Point: The point at (\_\_\_\_\_ km-post \_\_\_\_\_) where the Transporter's pipeline system in British Columbia interconnects with the FortisBC Energy System

Address of Shipper for receiving notices:

\_\_\_\_\_  
(name of Shipper) Attention: \_\_\_\_\_

\_\_\_\_\_  
(address of Shipper) Telephone: \_\_\_\_\_

\_\_\_\_\_ Fax: \_\_\_\_\_

\_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_

The information set out above is hereby approved by the parties and each reference in either this agreement or the applicable transportation Rate Schedule to any such information is to the information set out above.

## 2. Rate Schedule 22 / 22A / 22B / 23 / 25 / 26 / 27

### 2.1 Additional Terms

All rates, terms and conditions set out in the applicable transportation Rate Schedule (22, 22A, 22B, 23, 25, 26 or 27) and the General Terms and Conditions of FortisBC Energy, as any of them may be amended by FortisBC Energy and approved from time to time by the British Columbia Utilities Commission, are in addition to the terms and conditions contained in this Transportation Agreement and form part of this Transportation Agreement and bind FortisBC Energy and the Shipper as if set out in this Transportation Agreement.

### 2.2 Payment of Amounts

Without limiting the generality of the foregoing, the Shipper will pay to FortisBC Energy all of the amounts set out in the applicable transportation Rate Schedule for the Services provided under such Rate Schedule and this Transportation Agreement.

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**2.3 Conflict**

Where anything in either the applicable transportation Rate Schedule or the General Terms and Conditions of FortisBC Energy conflicts with any of the terms and conditions set out in this Transportation Agreement, this Transportation Agreement governs. Where anything in the applicable transportation Rate Schedule conflicts with any of the rates, terms and conditions set out in the General Terms and Conditions of FortisBC Energy, the Rate Schedule governs.

**2.4 Member of a Group**

Where the Shipper will be a member of a Group which has a Shipper Agent acting as agent for the members of the Group, the Shipper must complete Appendix A attached to this Transportation Agreement and the Shipper thereby agrees that the terms and conditions of Appendix A form part of this Transportation Agreement and bind the Shipper as if set out in this Transportation Agreement.

**2.5 Acknowledgement**

The Shipper acknowledges receiving and reading a copy of the applicable transportation Rate Schedule (22, 22A, 22B, 23, 25, 26 or 27) and the General Terms and Conditions of FortisBC Energy and agrees to comply with and be bound by all terms and conditions set out therein. Without limiting the generality of the foregoing, where the transportation Service is interruptible, the Shipper acknowledges that it is able to accommodate such interruption or curtailment and releases FortisBC Energy from any liability for the Shipper's inability to accommodate such interruption or curtailment of transportation Service.

**IN WITNESS WHEREOF** the parties hereto have executed this Transportation Agreement.

**FORTISBC ENERGY INC.**

\_\_\_\_\_  
(here insert name of Shipper)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name – Please Print)

\_\_\_\_\_  
(Name – Please Print)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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**APPENDIX A**  
**NOTICE OF APPOINTMENT OF SHIPPER AGENT**

1. \_\_\_\_\_ (Shipper) hereby gives notice to FortisBC Energy that Shipper has appointed \_\_\_\_\_ (the Shipper Agent) to act as agent for Shipper in all matters relating to gas supply and to transportation Service on the FortisBC Energy System. Shipper also gives notice to FortisBC Energy that Shipper wishes to be a member of a Group and the Shipper will cause the Shipper Agent to enter into a Shipper Agent Agreement or other agreement with FortisBC Energy that binds the Shipper Agent to pay the charges which the Shipper Agent elects to pay for and on behalf of the Shipper.  
(Name of Shipper)  
(Name of Shipper Agent)
2. Shipper acknowledges and agrees that the Shipper Agent will provide aggregate nominations for the Group to FortisBC Energy.
3. Shipper acknowledges and agrees that if the Group includes a member which is a Shipper under Rate Schedule 22, 22A, or 22B, the Group and its members will be subject to the demand surcharge provisions of Rate Schedule 22.
4. Shipper acknowledges and agrees that when there are constraints or limitations of Gas supply FortisBC Energy will notify the Shipper Agent and it will then be the responsibility of the Shipper Agent to notify Shipper of any curtailment or interruption arising from the constraint or limitation of Gas supply.
5. Shipper acknowledges and agrees that the Shipper Agent will provide FortisBC Energy with information which will be used by FortisBC Energy to bill Shipper for Backstopping Gas, Balancing Gas, Unauthorized Overrun Gas charges and demand surcharges.
6. Shipper acknowledges that FortisBC Energy will bill Shipper on the basis of information provided to FortisBC Energy by the Shipper Agent. Shipper agrees that it is bound by the information supplied to FortisBC Energy by the Shipper Agent and Shipper agrees that it will not dispute the information provided to FortisBC Energy by the Shipper Agent. Shipper agrees that the Shipper Agent may elect to pay some or all of the charges for Gas identified in Section 3.7 (Monthly Billing Information) of the standard form Shipper Agent Agreement and Shipper acknowledges that if the Shipper Agent fails to provide information to FortisBC Energy then notwithstanding any election that has been made by the Shipper Agent to pay some or all of the charges for Gas identified in Section 3.7 (Monthly Billing Information) of the standard form Shipper Agent Agreement, FortisBC Energy will bill Shipper directly on the bases set out in Section 3.8 (Lack of Allocation Information) of the standard form Shipper Agent Agreement of FortisBC Energy. Shipper agrees to pay FortisBC Energy as billed, and if Shipper disagrees with any of the billing information used by FortisBC Energy the Shipper will deal with the Shipper Agent to resolve that disagreement. Disputes between the Shipper and the Shipper

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Agent will not constitute a basis for non-payment by Shipper to FortisBC Energy of the amounts billed.

7. Shipper will provide FortisBC Energy with 30 days notice, except with the prior approval from FortisBC Energy, if Shipper wishes to leave the Group to be effective on the beginning of the next calendar month following the expiry of the notice period.
8. Shipper acknowledges and agrees that FortisBC Energy may disband the Group pursuant to Section 10 (Disbanding of the Group) of the standard form Shipper Agent Agreement.
9. Shipper will indemnify and hold harmless each of FortisBC Energy, its employees, contractors and agents from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from any act or omission of the Shipper Agent related to the agency created by the Shipper Agent Agreement.
10. Shipper acknowledges receiving a copy of the standard form Shipper Agent Agreement of FortisBC Energy.

\_\_\_\_\_  
(here insert name of Shipper)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name - Please Print)

DATE: \_\_\_\_\_

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**SCHEDULE A  
SHIPPER AGENT AGREEMENT**

This Agreement is dated \_\_\_\_\_, 20\_\_\_\_, between FortisBC Energy Inc. ("FortisBC Energy") and \_\_\_\_\_ (the "Shipper Agent").

**WHEREAS:**

- A. The Shipper Agent wishes to act as agent on behalf of all members of a Group in respect of transportation Service on the FortisBC Energy System; and
- B. The Shippers who are members of the Group have entered into Transportation Agreements with FortisBC Energy.

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the terms, conditions and limitations contained herein, the parties agree as follows:

**1. Specific Information**

Members of Group:  
(if space is insufficient, continue list on an additional page)

Commencement Date of this agreement:  
\_\_\_\_\_

Expiry Date of this agreement:  
\_\_\_\_\_

(no expiry date need be specified)

Address of Shipper Agent for receiving notices:  
\_\_\_\_\_

(name of Shipper Agent)

(address of Shipper Agent)

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Alternate Tel(s): \_\_\_\_\_

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The information set out above is hereby approved by the parties and each reference in either this agreement or the applicable Transportation Rate Schedules to any such information is to the information set out above.

## 2. Definitions

### 2.1 Definitions in Rate Schedule 26

Except where the context requires otherwise or except as otherwise expressly provided in this agreement, all words and phrases defined in Rate Schedule 26 or in the General Terms or Conditions of FortisBC Energy have the meanings set out in the Rate Schedule 26 and in the General Terms and Conditions of FortisBC Energy.

## 3. Shipper Agent Obligations

### 3.1 Management of Balancing Gas

The Shipper Agent is responsible for the management of all Balancing Gas for the Group and its members.

### 3.2 Management of Backstopping Gas

The Shipper Agent is responsible for the management of all Backstopping Gas supplied by FortisBC Energy to the Group and its members.

### 3.3 Management of Peaking Gas Service

The Shipper Agent is responsible for the management of all Peaking Gas supplied by FortisBC Energy to the Group and its members as well as the return of Peaking Gas Quantities and any Replacement Gas.

### 3.4 Group Nominations and Balancing

The Shipper Agent will provide Group nomination and balancing to FortisBC Energy in accordance with the sections of the applicable transportation Rate Schedules.

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**3.5 Standard Gas Supply Priority Schedule (Standard Priority Schedule)**

Before the Commencement Date of this agreement and before the commencement of each Contract Year the Shipper Agent will provide to FortisBC Energy a Standard Priority Schedule which will advise FortisBC Energy of the priority between members of the Group if a constraint or limitation of Gas supply occurs. The Shipper Agent may provide to FortisBC Energy a revised Standard Priority Schedule from time to time and will provide to FortisBC Energy a revised Standard Priority Schedule if there is a change in membership of the Group.

**3.6 Gas Supply Constraints or Limitations**

Upon receipt of a notice from FortisBC Energy of curtailment or interruptions pursuant to Section 4.4 (Notice of Gas Supply Constraint or Limitation) Shipper Agent will determine the allocation of Gas supply between members of the Group and will notify the Shippers which are members of the Group of the curtailment or interruption. Within two hours of receipt of notice from FortisBC Energy pursuant to Section 4.4, or such longer period as FortisBC Energy considers reasonable in the circumstances, the Shipper Agent will provide to FortisBC Energy a schedule setting out the Gas supply allocation for the Group to apply during that curtailment or interruption. If the Shipper Agent fails to provide a schedule setting out the Gas supply allocation for the Group to apply during the curtailment or interruption then FortisBC Energy will curtail Shippers on the basis set out in the Standard Priority Schedule.

**3.7 Monthly Billing Information**

At the end of each month, and within two Business Days of FortisBC Energy providing to the Shipper Agent a schedule of charges incurred (if any) pursuant to Section 4.2 (Monthly Provision of Data), the Shipper Agent will notify FortisBC Energy which charges the Shipper Agent elects to pay on behalf of the members of the Group and, if notice is not received, FortisBC Energy will bill the Shippers directly on a pro-rata basis.

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### 3.8 **Lack of Allocation Information**

If, at the end of a month, the Shipper Agent fails to provide to FortisBC Energy the monthly allocation schedule of charges incurred (if any) pursuant to Section 3.7 (Monthly Billing Information) then FortisBC Energy will bill on the basis of the best available information. For Balancing Gas FortisBC Energy will bill on a basis proportional to the actual takes of the Shippers during the month. For Backstopping Gas FortisBC Energy will bill on a basis proportional to the actual Day-to-Day takes of the Shippers during the Days when Backstopping Gas was supplied. For Unauthorized Overrun Gas FortisBC Energy will bill on the basis of the schedule(s) setting out the Gas supply allocation for the Group provided to FortisBC Energy pursuant to Section 3.7, or if the Shipper Agent fails to provide a schedule pursuant to Section 3.7, then on the basis of the applicable Standard Priority Schedule provided by the Shipper Agent pursuant to Section 3.5 (Standard Gas Supply Priority Schedule (Standard Priority Schedule)). For Replacement Gas FortisBC Energy will bill on a basis proportional to actual Day-to-Day takes of the Non-Bypass Shippers during the Day for which the Peaking Gas Quantities were not returned. For Positive Imbalances and Negative Imbalances for West to East SCP Transportation Service FortisBC Energy will bill on a basis proportional to the Peak Day Demand of the Non-Bypass Shippers. If further information becomes available, FortisBC Energy will adjust the billings on the basis of the further information.

### 3.9 **Charges for Extra Services**

If FortisBC Energy incurs extra expenses from a Shipper Agent failing to provide information, or failing to provide information in a timely manner, or failing to provide correct information, or otherwise failing to meet its obligations under this agreement, then FortisBC Energy may charge the Shipper Agent for such extra expenses and the Shipper Agent agrees to pay FortisBC Energy the reasonable extra expenses incurred as a result of such failure.

## 4. **FortisBC Energy Obligations**

### 4.1 **Daily Provision of Data**

FortisBC Energy will provide to the Shipper Agent a report on the Web Information and Nomination System ("WINS") setting out FortisBC Energy's best available data on the daily takes of the Group both by individual Shipper and in aggregate on a daily basis.

### 4.2 **Monthly Provision of Data**

Within 10 working days after the end of each month FortisBC Energy will provide to the Shipper Agent a report on the WINS setting out the finalized daily takes of each member of the Group.

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#### 4.3 **Capacity Constraints**

If FortisBC Energy, acting reasonably, determines that it does not have capacity on the FortisBC Energy System to accommodate interruptible transportation Service to any member of the Group then FortisBC Energy will directly notify that Shipper pursuant to Notice of Curtailment Section of the applicable Rate Schedule and will deal directly with the Shipper if the Shipper takes Unauthorized Overrun Gas or Unauthorized Transportation Service.

#### 4.4 **Notice of Gas Supply Constraint or Limitation**

If Gas supply constraints or limitations occur; either due to a constraint or limitation of supply from FortisBC Energy of Backstopping Gas or Balancing Gas, or a constraint or limitation of supply from another Supplier; FortisBC Energy will notify the Shipper Agent of any curtailment or interruption, will specify the quantity of Gas to which the Group in aggregate is curtailed and the time at which time such curtailment is to be made. FortisBC Energy will make reasonable efforts to give the Shipper Agent as much notice as possible with respect to such curtailment or interruption, not to be less than 4 hours prior notice unless prevented by Force Majeure.

### 5. **Changes to Group**

#### 5.1 **Amendments to Group**

Schedule A sets out the Shippers who are the members of the Group represented by the Shipper Agent to this agreement. No additions or deletions may be made to the Group without the Shipper Agent providing notice to FortisBC Energy, in a method approved by FortisBC Energy, showing such additions and deletions and the effective dates of such additions and deletions in accordance with Section 5 (Changes to Group) of this agreement.

#### 5.2 **Deletions From Group**

If the Shipper Agent wishes to cease acting as agent for a Shipper or a Shipper wishes to cease being a member of the Group, upon receipt by FortisBC Energy of not less than except with the prior approval of FortisBC Energy, 30 days prior written notice, or other method approved by FortisBC Energy, from either the Shipper or Shipper Agent and provided that the Shipper Agent has provided to FortisBC Energy the effective date of deletion of the Shipper from the Group such Shipper will be deleted from the Group on the beginning of the next calendar month following the expiry of the notice period.

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### 5.3 Additions To Group

If the Shipper Agent wishes to add a Shipper to a Group and the Shipper wishes to be added to the Group, and the Shipper has entered into a Transportation Agreement and completed an Appendix A - Notice of Appointment of Shipper Agent, and both the Shipper and the Shipper Agent have given to FortisBC Energy not less than, except with the prior approval from FortisBC Energy, 30 days prior written notice, or other method approved by FortisBC Energy, of such addition and provided that the Shipper Agent has provided to FortisBC Energy the effective date of the addition of the Shipper to the Group, such Shipper will be added to the Group effective on the beginning of the next calendar month following the expiry of the notice period.

## 6. Statements and Payments

### 6.1 Statements to be Provided

If the Shipper Agent elects to pay some or all of the charges for Gas taken by the Shippers as described in Section 3.7 (Monthly Billing Information), FortisBC Energy will, on or about the 15<sup>th</sup> day of each month, deliver to the Shipper Agent a statement for the preceding month showing the Gas quantities, and the applicable charges for which the Shipper Agent is responsible and the amount due. Any errors in any statement will be promptly reported to the other party as provided hereunder, and statements will be final and binding unless questioned within one year after the date of the statement.

### 6.2 Payment and Interest

Payment for the full amount of the statement, including federal, provincial and municipal taxes or fees applicable thereon, will be made to, or to the order of, FortisBC Energy at its Surrey, British Columbia office (mailing address: P.O. Box 6666 Stn. Terminal, Vancouver, B.C., V6B 6M9), or such other place in Canada as it will designate, on or before the 1<sup>st</sup> Business Day after the 10<sup>th</sup> calendar day following the billing date. If the Shipper Agent or Shipper fails or neglects to make any payment required under this Shipper Agent Agreement, or any portion thereof, to or to the order of FortisBC Energy when due, interest on the outstanding amount will accrue, at the rate of interest declared by the chartered bank in Canada principally used by FortisBC Energy, for loans in Canadian dollars to its most creditworthy commercial borrowers payable on demand and commonly referred to as its "prime rate", plus:

- (a) 2% from the date when such payment was due for the first 30 days that such payment remains unpaid and 5% thereafter until the same is paid where the Shipper Agent or Shipper has not, during the immediately preceding 6 month period, failed to make any payment when due hereunder; or

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- (b) 5% from the date when such payment was due to and including the date the same is paid where the Shipper Agent or Shipper has, during the immediately preceding 6 month period, failed to make any payment when due hereunder.

## 7. Term

### 7.1 Term

The term of this agreement will commence on the Commencement Date specified in Section 1 (Specific Information) of this agreement and will expire either:

- (a) 30 days following written notice from the Shipper Agent that the Shipper Agent wishes to cease to nominate for transportation Service and balancing on behalf of the Group;
- (b) the expiry or termination of the Transportation Agreements of all of the members of the Group;
- (c) the expiry date specified in Section 1 (Specific Information) of this agreement; or
- (d) 5 days following notice from FortisBC Energy to the Shipper Agent, and to the Shippers which are members of the Group, under Section 10.1 (Failure to Provide Information) and Section 10.2 (Default).

whichever date is earlier.

### 7.2 Survival of Covenants

Upon the termination of this agreement:

- (a) all claims, causes of action or other outstanding obligations remaining or being unfulfilled as at the date of termination; and
- (b) all of the provisions in this agreement relating to the obligation of either of the parties to provide information to the other in connection with this agreement,

will survive such termination.

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## 8. Representations, Warranties and Covenants

### 8.1 Representations and Warranties

The Shipper Agent represents and warrants to and covenants with FortisBC Energy as follows:

- (a) the members of the Group are listed in Section 1 (Specific Information) of this agreement;
- (b) the Shipper Agent is the agent of each of the members of the Group and has the authority of each of the members of the Group for the purposes of any and all matters set out in the applicable transportation Rate Schedule and this agreement; and
- (c) FortisBC Energy may rely on any act or thing done, or document executed, by the Shipper Agent in connection with of any and all matters set out in the applicable transportation Rate Schedule and this agreement.

## 9. Limitation on Liability and Indemnity

### 9.1 Limitation on Liability

Neither FortisBC Energy, its employees, contractors or agents will be liable in damages for or on account of any interruption or curtailment of transportation Service or Gas supply.

### 9.2 Indemnity

The Shipper Agent will indemnify and hold harmless each of FortisBC Energy, its employees, contractors and agents from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from any act or omission of the Shipper Agent related to the agency created by the Shipper Agent Agreement.

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## 10. Disbanding of the Group

### 10.1 Failure to Provide Information

If the Shipper Agent fails to provide FortisBC Energy with the information or schedules which the Shipper Agent is required to provide to FortisBC Energy pursuant to this agreement or is otherwise in breach of this agreement then, acting reasonably in the circumstances and on 5 days notice to the Shipper Agent and to the members of the Group, FortisBC Energy may disband the Group and deal directly with the Shippers which were members of the Group.

### 10.2 Default

If any Shipper which is a member of the Group is in default under the Default or Bankruptcy Section of the applicable Rate Schedule or becomes bankrupt or insolvent, then that Shipper will cease to be a member of the Group.

## 11. Arbitration

### 11.1 Arbitration

Any dispute between the parties arising from this agreement will be resolved by a single arbitrator pursuant to the *Arbitration Act* of British Columbia or successor legislation, save as expressly provided herein.

### 11.2 Demand for Arbitration

Either party may commence arbitration proceedings by sending to the other party a demand for arbitration setting out the nature of the dispute.

### 11.3 Arbitrator

The parties will have 10 days from receipt of the demand referred to in Section 11.2 (Demand for Arbitration) to agree upon the arbitrator, failing which either party may apply to the Supreme Court of British Columbia to select the arbitrator. The arbitrator must be sufficiently qualified by education and training to decide the particular questions in dispute. Unless otherwise agreed, the arbitrator may not be a past or present employee, officer or director of either of the parties or their respective successors or affiliates, any supplier of the Shipper or FortisBC Energy, or any member of the Group.

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**11.4 Commencement and Decision**

The arbitrator will proceed immediately to hear and determine the matter in dispute and will render a written decision, signed by the arbitrator, within 45 days after the appointment, subject to any reasonable delay due to unforeseen circumstances. Notwithstanding the foregoing, if the arbitrator fails to render a decision within 60 days after the appointment then either party may elect to have a new arbitrator appointed in like manner as if none had previously been appointed.

**11.5 Decision**

The decision of the arbitrator will be final and binding upon the parties and the parties will abide by the decision and perform the terms and conditions thereof.

**12. Notice**

**12.1 Notice**

Any notice, request, statement or bill that is required to be given or that may be given under this agreement will, unless otherwise specified, be in writing and will be considered as fully delivered when mailed, personally delivered, or sent by fax or other method approved by FortisBC Energy to the other party.

**13. Acknowledgement**

**13.1 Acknowledgement**

The Shipper Agent acknowledges receiving and reading a copy of Rate Schedules 22, 22A, 22B, 23, 25, 26 and 27 and the General Terms and Conditions of FortisBC Energy and will comply with and be bound by all terms and conditions set out therein.

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**IN WITNESS WHEREOF** the parties hereto have executed this agreement.

**FORTISBC ENERGY INC.**

\_\_\_\_\_  
(here insert name of Shipper Agent)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name – Please Print)

\_\_\_\_\_  
(Name – Please Print)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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