



City Council Report

Date: August 18, 2025
To: City Council
Through: Marc Heirshberg, Assistant City Manager
Michael Kennington, Deputy City Manager/Chief Financial Officer
From: Scott Bouchie, Energy Resources and Sustainability Director
Anthony Cadorin, Energy Resources Program Manager
Subject: City of Mesa Natural Gas "TRANSPORTATION GAS SERVICE" Rate
Schedule Revisions
Citywide

Purpose and Recommendation

The City of Mesa ("Mesa") Energy Resources Department recommends that the City Council approve revisions to the TRANSPORTATION GAS SERVICE (G6.3, GM6.3, G7.4, GM7.4, G7.6, GM7.6, G8.3, GM8.3, G9.3, GM9.3) rate schedule ("Transportation Rate") as described in Attachment 1. The Transportation Rate was recently revised to better accommodate large natural gas transportation customers (customers who are responsible for procuring their own natural gas commodity and interstate transmission), however, Mesa noted several areas within the revised Transportation Rate that lacked clarity and accuracy and so is revising the Transportation Rate to better reflect how natural gas is scheduled on the Kinder Morgan El Paso Natural Gas transmission system ("EPNG"). If the proposed changes are approved by City Council, the effective date will be October 1, 2025.

Background

Mesa operates a natural gas utility that provides service to two major service areas: 1) the City area which is approximately 90-square miles primarily within City limits, and 2) the Magma area which is approximately 236-square miles located southeast of the City in Pinal County. Mesa's combined natural gas system is comprised of 1,614 miles of distribution mains¹ and serves 79,663 customers².

A natural gas "transportation customer" is a customer who is responsible for purchasing their own natural gas commodity supply and then delivering that natural gas (through an interstate pipeline like EPNG) to Mesa's natural gas distribution system. Mesa then receives those natural gas supplies and distributes them from Mesa's city gate stations to the transportation customer's natural gas meter.

¹ As of May 2025 per the Energy Resources Department's GIS Analysis portal

² Active Customer Information System billing customer accounts as of April 2025

Discussion

Mesa has historically had transportation customers from time to time, however, Mesa does not currently have any active transportation customers using the Transportation Rate. As of today, Mesa is responsible for purchasing and delivering (through EPNG) all of the natural gas commodity supply for all of its customers.

In anticipation of the addition of a large transportation customer, staff in the Energy Resources Department has been evaluating the Transportation Rate for accuracy in terms of how the operation of a large customer will work as to minimize any negative impacts to the other customers on the system. This is necessary because imbalances between the transportation customer's gas usage and the amount of natural gas delivered to Mesa affect how Mesa handles its own imbalances. In discussions with EPNG and natural gas suppliers, Mesa identified inaccuracies in the Transportation Rate that must be corrected prior to bringing any more transportation customers into the system.

Alternatives

Given that this Council action is intended to remedy errors in the existing Transportation Rate, taking no action would result in maintaining a Transportation Rate that would incorrectly bill any future transportation customers.

Fiscal Impact

There are no customers currently using the Transportation Rate, therefore there is no impact to existing customer bills or revenue generated by the Transportation Rate. Future transportation customers will be billed properly as a result of the revisions to the Transportation Rate.

Coordinated With

This revision was coordinated with the City Attorney's Office and the Office of Management and Budget.

ATTACHMENT 1

City of Mesa
Mesa, Arizona

Transportation Gas Service
Effective Date ~~03/01/25~~ **10/01/25**
Ordinance No. ~~5923~~ **TBD**

Supersedes Schedule Effective ~~02/01/24~~ **03/01/25**

TRANSPORTATION GAS SERVICE

City – G6.3, Magma – GM6.3

TRANSPORTATION GAS SERVICE- Public Authorities

Federal – City – G7.4, Magma – GM7.4

Hospitals – City – G7.6, Magma – GM7.6

State & Local Govts - City – G8.3, Magma – GM8.3

Schools – City – G9.3, Magma – GM9.3

APPLICATION

This rate is applicable to any Customer receiving local distribution service from City and Magma’s gate stations and other distribution infrastructure owned by the City of Mesa (“System”) (1) meeting the qualifications listed in the “Customer Eligibility” section of this rate schedule or (2) that is required by the City to receive transportation gas service due to high demand or other unique Customer characteristics, all subject to the following:

1. The Customer shall enter into a Natural Gas Transportation Agreement (“Agreement”) specified by the City.
2. The Customer has arranged for the purchase, transmission, and delivery of natural gas from third parties to the System (“Delivered Gas”) sufficient to meet the Customer’s demands.
3. City reserves the right to limit or deny service if, in its sole and absolute discretion, (1) adequate capacity is not available in or to the existing City and/or Magma System, (2) such service would adversely affect other City and/or Magma System full-requirements sales customers, or (3) such service would pose a hazard to public safety.
4. Natural gas transported by the City under this schedule may not be resold and shall be for the Customer’s consumption only.

These rates are applicable for monthly billing cycles commencing on and after the Effective Date.

CUSTOMER ELIGIBILITY

A Customer may be eligible to receive natural gas transportation service under this Transportation Gas Service Tariff if the following conditions are satisfied:

1. The Customer’s average monthly consumption on an annual basis at one of the customer’s metered points of delivery designated in the Agreement is no less than fifteen thousand (15,000) Therms.
2. The Customer’s monthly and average hourly load factor is acceptable to the City in its sole and absolute discretion and appropriate for a transportation customer. If the Customer is new to the City and Magma’s Gas system, or if the Customer is altering its operations such that its natural gas consumption will be modified, the Customer shall provide sufficient evidence, in the City’s sole and absolute discretion, that future consumption will satisfy this requirement.
3. The Customer has demonstrated to the City’s satisfaction that the Customer has procured adequate Delivered Gas necessary to meet the Customer’s natural gas requirements for a term acceptable to City. Such gas shall be of a quality and composition acceptable to the City and its upstream pipeline operators as described in the upstream pipeline operators’ gas tariff as filed with and approved by the Federal Energy Regulatory Commission (“FERC”).

4. The City has available System capacity to receive the Delivered Gas and render the requested service. City does not guarantee capacity to receive Delivered Gas in any amount and Customer is solely responsible for determining the availability of such capacity with City and the interstate pipeline provider. City's capacity to receive and transport Delivered Gas will generally be determined on a first-come first-served basis and Delivered Gas shall not be higher priority through City's gates over City-purchased gas supplies.

Additional conditions may apply and be included in the Natural Gas Transportation Service Agreement. Failure to satisfy any of these conditions may result in the cessation, limitation, or termination of transportation service at the City's sole and absolute discretion. The availability, nature, and extent of full requirements or other gas service upon any termination of transportation service shall be at the sole absolute discretion of City.

MAXIMUM DAILY DELIVERY QUANTITY

1. Customer shall be subject to a Maximum Daily Delivery Quantity ("MDDQ") and Maximum Hourly Delivery Quantity ("MHDQ") (collectively, the "Maximum Delivery Quantities" or "MDQs") of Delivered Gas to be transported by City. Such MDQs shall be specified in the Natural Gas Transportation Agreement.
2. City may, in its sole and absolute discretion, from time to time, and at the advance written request of Customer (no later than 24 hours before the start of any requested "Gas Day", defined by the Transmission Provider's tariff and shall generally mean a period of twenty-four (24) consecutive hours beginning at 8:00 A.M., Mountain Clock Time ("MCT"), and pursuant to the scheduling and notification requirements of this Tariff and the Natural Gas Transportation Agreement) transport additional amounts of Delivered Gas over the MDQs. Such additional amounts of Delivered Gas shall be referred to as "Authorized Gas Over MDQ".
3. During times of maintenance or other restrictions or limitations on the System or applicable interstate pipeline systems, and subject to advance written notice by City (no later than 24 hours before the start of any requested Gas Day and pursuant to the notification requirements of this Tariff except in the event of an emergency), City may require a reduction in Customer's consumption and deliveries for a Gas Day. Such reduction amounts of Delivered Gas shall be referred to as "MDQ Reduction Quantities". Notwithstanding the foregoing, during times of emergency such as critical operating conditions on the pipeline or under circumstances where 24-hour notice is impractical, City will use commercially reasonable efforts to provide notice to Customer of required MDQ Reduction Quantities.
4. The total amount of gas authorized by City for transportation on the System is referred to as "City-Authorized Gas" and shall be equal to the ~~Customer's Delivered Gas amount as limited by the~~ MDQs plus any Authorized Gas Over MDQ less any MDQ Reduction Quantities.
 - a. Daily City-Authorized Gas shall be calculated based on ~~expected gas to be drawn from the System by Customer ("Burns") and the amount of Delivered Gas expected to be received by City~~ such calculation in a complete Gas Day; and
 - b. Hourly City-Authorized Gas shall be calculated based on ~~expected Burns and the amount of Delivered Gas expected to be received by City~~ such calculation in each hour.

OVERRUNS, UNDERRUNS & IMBALANCES

Customer must conform their Burns of gas to the amount of ~~City-Authorized~~ Delivered Gas. ~~The Customer's operating windows are defined as follows:~~

1. Imbalances. Any difference between a Customer's Burns and the amount of Delivered Gas received by City within the applicable Daily Operating Window shall be considered an "Imbalance".
 - a. Any Imbalance where Customer's Burns exceed the amount Delivered Gas shall be considered a "Negative Imbalance" and shall be a sale of gas from the City to Customer on the day in which the Imbalance occurred.
 - ~~a.b.~~ Any Imbalance where the amount of Delivered Gas received by City exceeds the Customer's Burns shall be considered a "Positive Imbalance" and shall be a sale of gas from the Customer to City on the day in which the Imbalance occurred and such quantities shall be retained by City.

2. Operating Windows. The Customer's operating windows are defined as follows:

b.a. Daily Operating Window:

- i. In any Gas Day, Customer shall have a Daily Operating Window in which Customer's Burns must match the amount of ~~Daily City Authorized~~**Delivered** Gas such that Burns must be within the lesser of (i) plus or minus twenty percent ($\pm 20\%$) or (ii) plus or minus ten thousand ($\pm 10,000$) Therms. All gas outside of the applicable Daily Operating Window shall be considered a "Daily Overrun" (if the Burns of Gas are in excess of the ~~City Authorized~~**Delivered** Gas) or a "Daily Underrun" (if the Delivered Gas is in excess of the Burns of Gas).

e.b. Monthly Operating Window:

- i. In any Month, Customer shall have a Monthly Operating Window under which Customer's Burns must match the amount of ~~City Authorized~~**Delivered** Gas within the lesser of (i) plus or minus five percent ($\pm 5\%$) of the Delivered Gas or (ii) plus or minus five hundred (± 500) Therms. All gas outside of this Monthly Operating Window shall be considered a "Monthly Overrun" (if the Burns exceed the ~~City Authorized~~**Delivered** Gas) or a "Monthly Underrun" (if the Delivered Gas exceeds the Burns).

~~2. Any difference between a Customer's Burns and the amount of City Authorized Gas received by City within the applicable Daily Operating Window shall be considered an "Imbalance."~~

~~a. Any Imbalance where Customer's Burns exceed the amount City Authorized Gas shall be considered a "Negative Imbalance" and shall be a sale of gas from the City to Customer on the day in which the Imbalance occurred.~~

~~b. Any Imbalance where the amount of Delivered Gas received by City exceeds the Customer's Burns shall be considered a "Positive Imbalance" and shall be a sale of gas from the Customer to City on the day in which the Imbalance occurred and such quantities shall be retained by City.~~

~~3. Any Burns in a Gas Day above Daily City Authorized Gas shall be considered "Daily Unauthorized Gas Quantities".~~

3. Daily Unauthorized Gas Quantities.

a. All Burns above Daily City Authorized Gas will be subject to those charges and penalties in the Transportation Agreement.

b. Any Negative Imbalances for Burns above Daily City Authorized Gas shall be considered "Daily Unauthorized Gas Quantities" and shall be sold by City and Customer charged those rates in Table 1 as "Daily Unauthorized Gas Quantities Negative Imbalance."

c. Any Positive Imbalances for Burns above Daily City Authorized Gas shall be considered "Daily Unauthorized Gas Quantities" shall be sold by Customer and Customer credited at those rates in Table 1 as "Daily Unauthorized Gas Quantities Positive Imbalance."

d. Daily Unauthorized Gas Quantities, whether for a Positive Imbalance or Negative Imbalance shall not be charged or credited duplicative Daily Overrun or Daily Underrun charges in Table 1, as applicable.

4. In addition to all other charges listed herein and the Transportation Agreement, during~~During~~ each Billing Period, Customer shall be charged and invoiced according to the following in a **monthly imbalance invoice**~~Monthly Imbalance Invoice~~. **If any such Daily Average Indexes are negative, then the charge/payment shall be zero dollars per dekatherm:**

Table 1) ~~Monthly Imbalance Invoice Charges~~ **for Daily Imbalances:**

Imbalance Type	Charge (Credit) to Customer per Dekatherm, All for the Applicable Gas Day
Daily Unauthorized Gas Quantities <u>Negative Imbalance</u>	The greater of (a) 200% of the inside FERC's Gas Daily Daily Average Index for the El Paso S. Mainline/N. Baja Code ARNBAJAN or (b) City's actual cost to source and deliver gas to Customer.
Daily Overrun	150% of the inside FERC's Gas Daily Daily Average Index for the El Paso S. Mainline/N. Baja Code ARNBAJAN
Negative Imbalance	The inside FERC's Gas Daily Daily Average Index for the greater of El Paso Permian or El Paso San Juan
Positive Imbalance	The inside FERC's Gas Daily Daily Average Index for the greater of El Paso Permian or El Paso San Juan
Daily Underrun	(75% of the inside FERC's Gas Daily Daily Average Index for the greater of El Paso Permian or El Paso San Juan).
<u>Daily Unauthorized Gas Quantities Positive Imbalance</u>	<u>50% of the Daily Average Index for the greater of El Paso Permian or El Paso San Juan.</u>

5. **Monthly Overrun and Underrun Quantities.** For all Monthly Overrun quantities or Monthly Underrun quantities, Customer shall be charged an additional \$0.25 per Dekatherm.
6. **Hourly Unauthorized Gas Quantities.** Any hourly Burns above Hourly City-Authorized Gas shall be considered "Hourly Unauthorized Gas Quantities". Hourly Unauthorized Gas Quantities shall be charged an additional \$5.00 per Dekatherm when available. City's ability to transport Hourly Unauthorized Gas Quantities may be limited by the available capacity of metering equipment, distribution system infrastructure, city gate station infrastructure, or any other factor limiting receipt by City or transportation of those quantities to Customer.
7. In addition to the charges listed above, Customer shall be responsible for:
 - a. Any incremental imbalance penalties, acquired capacity charges, taxes, charges, surcharges, increased transmission costs, and all other increased costs incurred by City resulting from Customer's Imbalances, Overruns, Underruns, and/or Daily or Hourly Unauthorized Gas Quantities ("Penalties") regardless of whether City, in its sole and absolute discretion, chooses to dispute such imposition.
 - b. The Customer will be charged a pro rata share of any upstream pipeline charges, Penalties, and/or fees that were incurred by the City attributable to the Customer.
8. Under no circumstances shall the provisions of this section be considered as giving the Customer any right to Imbalances, Overruns, Underruns, and/or Daily or Hourly Unauthorized Gas Quantities in any amount, nor shall this Section or payments thereunder be considered as a substitute for any other remedy available to the City against the Customer for failure to respect its obligation to conform its Burns to the volumes of City-Authorized Gas delivered to the System within the same period.
9. The City shall not assess Imbalance, Overrun, or Daily Unauthorized Gas Charges more than once on the same volumes of gas and where more than one such charge is authorized, the greatest charge shall be imposed.

CUSTOMER DEFAULT

The City shall not be required to perform or continue service on behalf of any Customer that fails to comply with the terms contained in this schedule and the terms of the Customer's Agreement with the Utility. The Utility shall have the right to waive any one or more specific defaults by any Customer under any provision of this schedule or the Agreement, provided, however, that no such waiver shall operate or be construed as a waiver of any other existing or future default or defaults, whether of a like or different character.

MONTHLY BILLING CYCLE

The Natural Gas Transportation Service rate shall apply to all gas transported during the billing cycle.

<u>Service Charge:</u>	\$1,152.58 per billing cycle
<u>Rate:</u>	\$0.3164 per Billed Therm, Usage Charge first 15,000 Therms; and
	\$0.2871 per Billed Therm, Usage Charge, all Billed Therms greater than 15,000 and less than or equal to 90,000 Therms; and
	\$0.2163 per Billed Therm, Usage Charge, all Billed Therms greater than 90,000 and less than or equal to 500,000 Therms; and
	\$0.1400 per Billed Therm, Usage Charge, all additional Billed Therms

In addition, the Customer shall be responsible for any other costs as specified in the Agreement. The minimum charge per month shall be the Monthly Billing Cycle Service Charge, plus all adjustments set forth herein.

Customer shall be responsible for tracking all Delivered Gas and reporting the same to City in a format acceptable to City for each billing cycle, no later than the 15th day of the subsequent billing cycle. These reports will be subject to City review and approval. Notwithstanding the foregoing, City may, at its sole option, independently track Customer's Delivered Gas, Burns, Daily and Hourly Unauthorized Gas Quantities, Imbalances, Overruns, and Underruns.

ADJUSTMENTS

1. The applicable proportionate part of any taxes or governmental impositions that are assessed on the basis of the gross revenues of the City and/or the price or revenue from the gas or service sold and/or the volume of gas generated or purchased for sale and/or sold hereunder shall be added to each utility bill.
2. If any sales, excise, or other new or additional taxes, licenses, or fees are hereafter imposed against the City related to services rendered to Customer, such tax or taxes, licenses or fees shall be reimbursed by Customer to City.
3. Charges incurred through the Agreement or through this rate schedule other than those Service Charge and Rates listed above may be charged during subsequent billing cycles.

POINT OF RECEIPT

Delivered Gas intended for transportation to Customer under this schedule shall be tendered to City at the outlet of the pipeline meter assigned to City and as determined by the City in its sole and absolute discretion and specified in the Agreement ("Point of Receipt").

POINT OF DELIVERY

All Delivered Gas transported to Customer by City hereunder shall be tendered at outlet of the Customer's meter ("Delivery Point"). If Customer has more than one Delivery Point, Customer must specify what proportion of the supplied gas is to be transported to each Delivery Point in the Agreement.

RECEIPT POINT PRESSURE

Delivered Gas received by the City for transportation hereunder must be tendered at a pressure sufficient to allow gas to enter the System but not in excess of the maximum pressures specified in City's service agreement with El Paso Natural Gas Company (or other interstate natural gas transmission pipeline). City shall not be required to compress into its System or facilities Delivered Gas received by City under this schedule, to lower its System operating pressure, to alter the direction of gas flow and/or the gas load or other operation or utilization of its System, or otherwise to change its normal distribution operations in order to receive and transport Delivered Gas hereunder.

DELIVERY POINT PRESSURE

City shall transport Delivered Gas to each Delivery Point designated in the Agreement at such pressures as are available from time to time. Pressure is not warranted or guaranteed.

SCHEDULING AND NOMINATION INFORMATION

North American Energy Standards Board guidelines incorporated in FERC Order No. 809 applicable to the Kinder Morgan El Paso Natural Gas pipeline (or other interstate natural gas transmission pipeline) will be followed regarding nominating, confirming and scheduling gas receipts and deliveries, as they may be revised by the FERC from time to time. The Customer shall be responsible for directly contacting the City or its designee (collectively the "City") and the upstream interstate natural gas transmission pipeline(s) to arrange for the nominating and scheduling of receipts and deliveries hereunder, provided, however, that the Customer may designate one party to serve as its Agent for such purpose. The City and upstream interstate natural gas transmission pipeline(s) require that specific information be provided to successfully process each nomination. It is Customer's responsibility to satisfy the information requirements of both the City and the upstream interstate natural gas transmission pipeline(s).

LIMITATION ON TRANSPORTATION OBLIGATIONS

Customer's daily Burns are to be consumed and supplied at approximately a uniform rate. On any operating day, the City may refuse to accept quantities of gas that result in fluctuations in excess of either ten thousand (10,000) Therms or twenty percent (20%) from the volumes transported during the previous operating day. Fluctuations in excess of either ten thousand (10,000) Therms or twenty percent (20%) from the previous operating day shall only be allowed if prior approval has been obtained from the City (or its designee).

City shall be under no obligation to transport natural gas quantities other than those detailed in the Agreement. City will make commercially reasonable efforts to coordinate and notify Customer of planned outage events affecting the receipt or transportation of Customer's Delivered Gas, however, nothing in the Agreement nor City's Terms and Conditions nor City's Utility Rates & Fees construe a "Firm" obligation for receipt, transportation, or delivery of natural gas supplies to Customer. Customer's Delivered Gas shall not be "priority" gas and in the event of limitations on City's ability to receive or transport gas (whether imposed by the upstream interstate pipeline or otherwise) City may reduce, interrupt or suspend transportation service to Customer. City will make reasonable efforts to inform Customer of any unplanned outage events whether due to third party damage, system failure, or other cause so that Customer may adjust its operations and gas supplies. City does not warrant or covenant that any gas delivered or transported to Customer will be free from fluctuations or intermittencies.

OPERATIONAL FLOW ORDERS

Customer shall change its nomination within twenty-four (24) hours of notice by City or its designee. If the Customer fails to timely change its nomination upon City's request, City (or its designee) may issue an Operational Flow Order (OFO). Such OFO shall thereafter establish Customer's nomination to City's system. All gas quantities delivered to and/or taken from the System in violation of City's OFO shall constitute unauthorized receipts or deliveries for which a charge of three (3) times the rate under Gas Schedule No. G3.6 shall be assessed for each Therm tendered to and/or taken from City on a daily basis in violation of City's OFO in addition to any other applicable fees and/or charges. Customer shall be exempt from Imbalance charges that result from complying with City's OFO request(s) issued under this section.

The City reserves the right to impose, at any time, any conditions upon the transportation of Delivered Gas which the City, in its sole good faith judgment, deems necessary to maintain the safe and efficient operation of its System, or to make the operating terms and conditions of service hereunder compatible with those of its upstream interstate suppliers, in either case, an "Operational Curtailment". Under such circumstances, the following conditions shall apply: (a) Any Customer that does not comply with a notice of Operational Curtailment shall be subject to, in addition to any otherwise applicable charges, a charge of \$10.00 per Therm for all unauthorized quantities during the curtailment period in addition to all other penalties, fees, charges and other costs authorized under this Tariff.

CURTAILMENT OF SERVICE

City (or its designee) will use reasonable efforts to provide transportation service to Customer. However, City (or its designee) may curtail service to Customer as necessary to assure continued service to City's full-service customers, to meet a system emergency, respond to upstream pipeline conditions including a claim of force majeure by an upstream pipeline or applicable gas supplier, or as necessary to protect system integrity. City deliveries and transportation of gas to Customer hereunder shall be subject to curtailment or interruption in whole or in part upon thirty (30) minutes notice, if practicable, by telephone or otherwise by City.

QUALITY OF GAS

All Delivered Gas shall meet all applicable specifications set out in Section 5 of the General Terms and Conditions (or successor provisions) of the Kinder Morgan El Paso Natural Gas pipeline (or other interstate natural gas transmission pipeline) FERC Gas Tariff.

DEFINITIONS

"Daily Average Index" – The average index price for an applicable receipt point sourced from, in order of preference, either Inside FERC Daily or Natural Gas Intelligence, subject to data availability.

"Gas Day" – defined by the Transmission Provider's tariff and shall generally mean a period of twenty-four (24) consecutive hours beginning at 8:00 A.M., Mountain Clock Time ("MCT").

"Therm" - that amount of gas having a heating value of 100,000 BTU (British Thermal Units)

~~"Gas Day" – defined by the Transmission Provider's tariff and shall generally mean a period of twenty four (24) consecutive hours beginning at 8:00 A.M., Mountain Clock Time ("MCT").~~

WARRANTY OF TITLE AND INDEMNIFICATION

Title to all Delivered Gas transported by City hereunder will remain with the Customer at all times. Customer warrants that it shall have good title to all gas transported under this schedule, and Customer shall agree to fully defend, protect, indemnify, and hold harmless City (or its designee) from and against any claim, demand, cost (including attorney fees and court costs), liability, injury, damage, or judgment made or asserted against City (or its designee) resulting from any dispute regarding title to Delivered Gas.

Prior to receipt of Delivered Gas by City at the Point of Receipt, as between Customer and City, Customer shall be deemed to be in control and possession of the Delivered Gas transported under this schedule. After City (or its designee) has received Delivered Gas at the Point of Receipt, City (or its designee) will be deemed in possession and control of Delivered Gas until City (or its designee) transports the Delivered Gas to the Delivery Point; thereafter, Customer shall be deemed to be in possession and control of the Delivered Gas.

When the Delivered Gas is in the control and possession of a Party, such possessing Party agrees to fully defend, protect, indemnify, and hold harmless the non-possessing Party, its agents, employees, subcontractors, and persons for whom the non-possessing Party is responsible, from and against any third-party claim, demand, cost (including attorney fees and court costs), liability (including strict liability), injury, damage, or judgment made or asserted against such non-possessing Party, its agents, employees, and subcontractors, resulting from damage, loss of whatever kind or character arising out of or in connection with the Delivered Gas by the possessing Party, its agents, employees, subcontractors, and persons for whom the possessing Party is responsible in connection with the performance or non-performance under this schedule. Such indemnification shall exclude damage or losses to the extent caused by the negligence or more culpable conduct, or fault of the non-possessing Party, its agents, employees, and subcontractors.

Notwithstanding any other provision of this Transportation Gas Service rate, City shall not be liable to Customer for any punitive, consequential, indirect, exemplary, or incidental damages, including, without limitation, damages based upon lost revenues or profits.

CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF FACILITIES

City will install, at Customer's expense, all necessary equipment to permit continuous monitoring of Customer's usage. Customer shall provide a physical location and quantity of land suitable to locate the necessary metering and regulating equipment. All such equipment shall be owned, operated, and maintained by City.

Customer also shall supply, at its own expense, an electric supply and communication source, if required by City, as well as a site suitable on which to locate the Electronic Flow Measurement ("EFM") equipment, to accommodate EFM data transmission to City. City shall provide Customer with access to the EFM data generated by City's equipment at Customer's request and expense. City shall own, operate, and maintain all EFM equipment.

Customer shall also be responsible for all costs associated with any distribution infrastructure or upstream infrastructure costs required to provide transportation service to the Customer and which City can demonstrate are a result of the Customer's transportation service. All such facilities shall be installed and owned by the City.

OTHER TERMS AND CONDITIONS

Service hereunder is subject to City's Terms and Conditions for the Sale of Utilities.