

**NEW MEXICO GAS COMPANY, INC.**

**ORIGINAL SAMPLE FORM NO. 59**

**OFF-SYSTEM FIRM TRANSPORTATION AGREEMENT**

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Please see attached Off-System Firm Transportation Agreement Form.

**EFFECTIVE**

October 30, 2024

Replaced by NMPRC

By: Operation of Law

Advice Notice No. 103

/s/Anita Hart

Anita Hart

Director, Regulatory Affairs

NMGCO #4792492

NEW MEXICO GAS COMPANY, INC.

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OFF-SYSTEM FIRM TRANSPORTATION AGREEMENT

This Firm Transportation Agreement (“Agreement”) is entered into with effect on the \_\_\_\_\_ (the “Effective Date”) by and between \_\_\_\_\_ (“Shipper”), and NEW MEXICO GAS COMPANY, INC. (“Company”), referred to collectively as the “Parties”. WHEREAS Company and Shipper entered a Standard Off-System Transportation Contract No. \_\_\_\_\_ (the “Transportation Contract”) dated \_\_\_\_\_;

WHEREAS Company owns natural gas pipelines through which it transports certain natural gas within the State of New Mexico;

WHEREAS, Shipper transports certain natural gas located in the State of New Mexico in the vicinity of Company’s natural gas pipelines, and Shipper’s end-users are “Non-NMGC End-Users” as that term is defined in the Company’s Rate No. 70, as adopted, and modified from time to-time by the New Mexico Public Regulation Commission (“NMGC Rate 70”);

WHEREAS Shipper desires to reserve firm off-system transportation service to transport certain volumes of gas on the Company’s pipeline system between certain Company receipt points and certain Company delivery points; and

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Company agree as follows:

I.

As provided for in 17.10.660.10(C) and (D) NMAC and subject to New Mexico Gas Company Rule No. 21, Company agrees to provide Shipper firm off-system service to transport gas through Company’s pipeline system between the Company receipt and delivery points (respectively “Receipt Points” and “Delivery Points”) for the volumes of gas per day of capacity (in MMBtu) reflected in Exhibit A (the “Firm Reservation”), subject to the limitations set forth in Section II of this Agreement. In consideration for the Firm Reservation, Shipper shall pay to Company the charges and rates applicable under NMGC Rate 70 as applied to the transportation of the amount of the Firm Reservation reflected adjacent to each Delivery Point listed in Exhibit A for the entirety of the term of this Agreement regardless of whether Shipper actually transports the full amount of the Firm Reservation each day. The attached Exhibit A shall also constitute an update and supplement to the Transportation Contract executed between Company and Shipper for deliveries between the Company Receipt Points and Delivery Points. The provision of firm transportation service for the Firm Reservation shall commence on the Effective Date and expire on \_\_\_\_\_ (the “Term”).

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II.

Shipper's Firm Reservation is subject to reduction for \_\_\_\_\_ in the event that Company enters into Off-System Firm Transportation Agreements with other parties prior to \_\_\_\_\_ and the aggregate amount of the firm reservations (including Shipper's Firm Reservation) exceeds the maximum volume of gas per day that Company can transport through the Delivery Points. In such an event, the capacity allocation procedures set forth in NMGC Rule No. 21, as modified from time-to-time by the New Mexico Public Regulation Commission, shall govern, such that Shipper's Firm Reservation may be reduced to the proportion that Shipper transported during the same month of the previous year, relative to the total amount of volumes of gas transported off-system in that month; provided, however, that such reduction shall only be to the extent required to comply with the capacity allocation procedures. The maximum potential amount of Shipper's Firm Reservation reduction is shown in Exhibit A. Shipper's Firm Reservation shall not be reduced below the Minimum Firm Reservation quantities identified in Exhibit A and Company will notify Shipper of any reductions to Shipper's Firm Reservation no later than \_\_\_\_\_.

III.

The applicable transportation rate and fuel for transporting gas to Non-NMGC End Users is NMGC Rate 70.

IV.

Company shall invoice Shipper for all amounts due and owing under this Agreement on a monthly basis. Amounts owed shall be calculated by using the following formula: (Delivery Point Firm Reservation) \* (Number of calendar days in the Term) \* (NMGC Rate 70 for Non-NMGC End-Use). Shipper shall make payment of all amounts due and owing within 30 calendar days from the date the Company invoices Shipper. Shipper and Company agree that, in the event NMGC Rate 70 is modified, that the new NMGC Rate 70 will be applied to the Firm Reservation. Shipper understands and acknowledges (1) that Company is a regulated utility operating in the State of New Mexico, (2) that Company's rates and services are subject to regulation by the New Mexico Public Regulation Commission ("NMPRC") and the Federal Energy Regulatory Commission ("FERC"), and (3) that the terms and amounts contained in this Agreement are subject to review, modification, or prohibition/cancellation by the NMPRC or FERC. In the event the NMPRC or FERC modifies the terms of this Agreement or prohibits/cancels this Agreement, the Company shall not be liable in any way to Shipper.

V.

Company and Shipper understand that Company may be unable to deliver Shipper's gas from time to time, through no fault of Shipper, at the Delivery Points (a "Delivery Failure"). Notwithstanding

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any other provision in this Agreement, in the event of a Delivery Failure, Shipper shall not be liable to Company for payment for the Firm Reservation to the extent these volumes are affected and for such time as the Delivery Failure exists. Likewise, in the event Company is unable to deliver Shipper's gas from time-to-time Company shall in no way be liable to Shipper.

Company and Shipper further understand that in the event that Interruption, Curtailment, or Capacity Allocation as defined in NMGC Rule No. 21 become necessary at Receipt Points or Delivery Points, Shipper's Firm Reservation will be prioritized over volumes transported to Non-NMGC End-Users by customers that have not contracted for a firm reservation. Notwithstanding any other provision in this Agreement, in the event that Shipper's Firm Reservation is subject to an Interruption, Curtailment, or Capacity Allocation, Shipper shall not be liable to Company for payment for the affected volumes of the Firm Reservation and for such time as the Interruption, Curtailment, or Capacity Allocation exist. Likewise, in the event that an Interruption, Curtailment, or Capacity Allocation occur, Company shall in no way be liable to Shipper.

VI.

Neither this Agreement nor any interest herein may be assigned or delegated by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. This consent requirement shall not apply to an assignment to the successor of any Party when such succession results by way of merger, consolidation, or the sale of all or substantially all the assets of such Party, in which event all the terms and conditions hereof shall be fully binding upon and inure to the benefit of the successor(s). Notwithstanding the foregoing, rights and duties hereunder may be assigned and delegated to a Party's Affiliate without the consent of the other Party provided notice of such assignment and delegation is provided to the other Party as soon as practicable after such assignment and delegation. The Parties agree that facilities identified in this Agreement as owned and operated by each Party shall be in compliance throughout the term of this Agreement with all applicable local, state, and federal laws, regulations, rules, orders, directives and codes, licenses and permits that apply to the ownership, operation, and maintenance of such facilities. If any provision of this Agreement or the performance of any Party is prevented, abrogated, or substantially modified by lawful government action or court order, the Parties will endeavor in good faith to modify this Agreement so that it may continue in effect, provided that they can do so in a manner in which the economic benefit to the Parties remains substantially the same. Shipper understands and agrees that nothing in this Agreement modifies or otherwise excepts Shipper from the provisions of the Company's Rule No. 21 or any other Company rules or applicable regulations that in anyway relate to rights and obligations during constrained and emergency situations.

VII.

The interpretation and performance of this Agreement shall be construed in accordance with the laws of the State of New Mexico, excluding, however, any conflict of laws rule that would apply

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the law of another jurisdiction. The Parties agree that venue shall be limited to the state courts in New Mexico or the Federal District Court for the District of New Mexico.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set out below to be effective on the Effective Date.

\_\_\_\_\_  
(Shipper)

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

NEW MEXICO GAS COMPANY, INC.

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

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Exhibit A

Firm Reservation Delivery and Receipt Points

Receipt Points

Receipt Point	Firm Reservation (MMBtu/day)	Term
Total		

Delivery Points

Delivery Point	Firm Reservation (MMBtu/day)	Minimum Firm Reservation* (MMBtu/day)	Term

\*Firm Reservation is subject to the limitations set forth in Section II of this Agreement.