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July 20, 2016

VIA ELECTRONIC DELIVERY

Cynthia T. Brown, Chief  
Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, N.W.  
Washington, DC 20423

**RE: *Dyno Nobel, Inc. and Dyno Nobel Louisiana Ammonia, LLC v. NuStar Pipeline Operating Company, L.P.*, Docket No. NOR 42147: Motion of NuStar Pipeline Operating Company, L.P. to Dismiss Complaint**

Dear Ms. Brown:

NuStar Pipeline Operating Partnership, L.P. (“NuStar”) hereby files its Motion to Dismiss Complaint with the Surface Transportation Board (“Board”) in the above captioned proceeding on July 20, 2016.

If there are any questions regarding this filing, please feel free to contact the undersigned directly, either by telephone (202) 661-6950 or by e-mail: [cbarr@postschell.com](mailto:cbarr@postschell.com).

Very truly yours,

\_\_\_\_\_  
/s/

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**UNITED STATES OF AMERICA  
BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**Dyno Nobel, Inc. and Dyno  
Nobel Louisiana Ammonia, LLC,** )  
 )  
 )  
 **Complainant,** )  
 )  
 )  
 **v.** )  
 )  
 **NuStar Pipeline Operating  
Partnership, L.P.** )  
 )  
 )  
 **Respondent** )

**Docket No. NOR 42147**

**MOTION OF NUSTAR PIPELINE OPERATING  
PARTNERSHIP, L.P. TO DISMISS COMPLAINT**

Pursuant to 49 U.S.C. § 14701(b) (2012) and 49 C.F.R. § 1111.5 and 1117 (2015) of the Rules of Practice and Procedure of the Surface Transportation Board (“Board”), NuStar Pipeline Operating Partnership, L.P. (“NuStar”) respectfully files this Motion to Dismiss the Complaint (“Motion”).

On June 30, 2016, Dyno Nobel, Inc. and Dyno Nobel Louisiana Ammonia, LLC (individually and collectively “Dyno” or “Complainant”) filed an “Unreasonable Practice Complaint” (“Complaint”) with the Board, alleging an unreasonable practice by NuStar under 49 U.S.C. §§ 15901(b) and 15904. NuStar requests that the Board dismiss the Complaint for the following reasons:

1. During the period in which the alleged unreasonable practice occurred, NuStar was not providing service, did not hold itself out to provide service, and had no common carrier duty to provide service, to Complainants;
2. Complainants’ have failed to state a claim upon which relief can be granted because costs in aid of construction are a standard industry practice and cannot constitute an unreasonable practice;

3. Complainants' allegations include various statements that, if they constitute a cause of action at all, would arise under contract law, and not the jurisdiction of the Board.

The Complaint raises numerous factual claims and allegations; however, dismissal is warranted based on a few broad, controlling principles. The Board should put aside Dyno's various contract-like claims regarding whether NuStar could or should have handled its problems with loss of easement rights along the lateral line connecting the Waggaman plant to NuStar's mainline – NuStar disagrees with these claims, but they should be presented to a court, not to the Board. The Board also need not ponder very long or very hard how it can possibly be an unreasonable practice for NuStar to require a shipper to pay for the *extension of service* from NuStar's currently-operating system to a plant located fifteen miles away from NuStar's pipeline system, at the end of an idled pipeline that was unusable without substantial investment.

The Board should instead focus on the key premise upon which Dyno's Complaint relies: that in 2012-2014, Dyno had an ongoing obligation as a common carrier to provide common carrier pipeline service from Waggaman to the NuStar mainline and to destinations downstream.<sup>1</sup> Dyno rests its case on this alleged obligation, despite the fact that as of 2012, the Fortier Lateral connecting Waggaman and the NuStar system, had been inactive and out of service for more than a decade, and despite the fact that reactivation required an investment of substantial money and time to restore the lateral to operational status, and despite the fact that NuStar concluded that it could not operate the pipeline without re-acquiring property rights (in effect, new easements) for the right of way. Dyno rests its case on NuStar's alleged obligation to provide service on an idled, empty and, at that time, unusable, lateral segment, despite the fact that under NuStar's tariff during the 2012-2014 period, NuStar did not hold itself out to provide service

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<sup>1</sup> See Complaint at ¶¶ 12, 31-32.

from Waggaman, and despite the fact that shippers are required to provide their own facilities for connecting their tenders of anhydrous ammonia to the pipeline. On this central point, which Dyno alleges without any supporting legal citations or argument, Dyno is wrong. NuStar was not obligated as a common carrier to restore service on inactive and idled facilities, and is not obligated to continue providing service from particular points, as the Supreme Court has firmly stated. Given that Dyno's central premise is incorrect, Dyno is also wrong to claim that NuStar could not lawfully require Dyno to compensate it for the cost of restoring service to reach the Waggaman plant. Indeed, this type of payment for extension of facilities is commonplace in both the common carrier pipeline and public utility industries, and cannot be an "unreasonable practice." Consequently, the Complaint should be dismissed.

#### **I. STATEMENT OF PERTINENT FACTS**

Concurrently with this Motion, NuStar is filing an Answer formally responding to the factual assertions included in the Complaint. However, for purposes of establishing the proper context for this Motion, NuStar will summarize for the Commission certain relevant facts regarding the facilities, services held out by NuStar and negotiations for commencement of services to be provided by NuStar for Dyno at its Waggaman, Louisiana Plant ("Waggaman"). The key facts are not disputed by Complainant, but rather are ignored and mischaracterized, and the legal conclusions drawn from them by Complainant are wholly incorrect.

NuStar operates an approximately 2,000 mile long common carrier pipeline system providing for the transportation of anhydrous ammonia from several origins in the state of Louisiana to destinations in Louisiana, Arkansas, Missouri, Iowa, Indiana, and Illinois. A map of the system is appended as Attachment A to this Motion. NuStar operates this pipeline pursuant to a tariff published on its website and available to its shippers, for interstate service

subject to the jurisdiction of this Board pursuant to the ICC Termination Act of 1995 (“ICCTA”),<sup>2</sup> as well as an intrastate tariff for service subject to the Louisiana Public Service Commission. NuStar commenced its operation of this anhydrous ammonia pipeline system when it acquired the pipeline from Kaneb Pipeline Partners, L.P., and has operated the line since then.<sup>3</sup>

**A. NuStar Had No Ability to Serve the Waggaman Plant, and Did Not Hold Itself Out to Do So, Until NuStar Reactivated an Idled, Inactive Line Segment, the Fortier Lateral and Filed a Tariff Offering the Service.**

There is no dispute regarding the *general* longstanding status of NuStar as a common carrier subject to ICCTA and Board obligations regarding its interstate transportation service from Louisiana to destinations outside Louisiana. NuStar’s role as a common carrier entity is not, however, particularly relevant here. The Complaint specifically argues that NuStar had a duty to provide service to Dyno’s Waggaman, Louisiana Plant during the period 2012 to the present. Waggaman is not located on the main system of NuStar, and cannot be served from that mainline. The line segment known as the Fortier Lateral extends approximately 15 miles from the Waggaman plant site to the NuStar mainline. The location of the Fortier Lateral is shown in the inset in the map in Attachment A. A shipper at Waggaman can only seek to transport anhydrous ammonia on NuStar by tendering the product to the end of the Fortier Lateral.

NuStar’s currently-effective tariff for interstate anhydrous ammonia transportation is its S.T.B. No. 22, effective July 12, 2016, which is appended to this Motion as Attachment B. That tariff shows that at present, Waggaman is an origin on the NuStar pipeline and is subject to the rates and terms provided in the tariff. However, prior to February 1, 2016, NuStar did not offer

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<sup>2</sup> 49 U.S.C.A. Sections 15101 *et seq.*

<sup>3</sup> The system itself has operated under several owners since its construction in 1969 as the Gulf Central Pipeline.

to provide service from Waggaman, nor was service from Waggaman part of its tariff holding-out. Included as Attachment C is NuStar's S.T.B. No. 19, effective February 1, 2016, which clearly states that the origin of Waggaman, Louisiana, is a *new* service that was not offered previously (*see* Attachment C, page 2). The absence of service from Waggaman is also evidenced by NuStar's prior interstate tariff, S.T.B. No. 18, appended as Attachment D. NuStar's S.T.B. No. 18 lists all origins (Donalson, Garner, Taft and Sterlington, Louisiana), but does not include Waggaman. Complainant does not and cannot contest that NuStar offered no transportation service from Waggaman prior to February, 2016.

The lack of a tariff offering to originate product at Waggaman was due to the fact that the Fortier Lateral was not operational prior to February 2016. The Fortier Lateral had been removed from service since the late 1990s, filled with nitrogen and left idle, after the closure of the plant that was the only source of anhydrous ammonia for the lateral. After removal from service of the Fortier Lateral, it was impossible for NuStar to resume providing service without undertaking a number of physical steps and expending monies to resume service on the lateral.

That NuStar did not offer service on the Fortier Lateral as part of its tariff obligations, and is further illustrated by other provisions in the tariff. NuStar's Rules and Regulations require that shippers are responsible for providing facilities to inject anhydrous ammonia into the pipeline:<sup>4</sup>

**Item No. 70 Facilities Required at Origin**

Product shall be accepted by Carrier only when Shipper or its designee has provided facilities for delivery of product into Carrier's system at pressures and flow rates required by Carrier. There shall be a meter station at each point of Origin which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered to Carrier.

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<sup>4</sup> The relevant Rules and Regulations quoted and referenced here as to shipper obligations and origins have not changed materially during the relevant period discussed by the Complaint.

Item No. 18 of the Rules and Regulations defines an “Origin” as being, “[a] point named on the tariff at which Carrier will accept Ammonia for transportation.” Simply stated, because Waggaman was not a point named in the tariff at which NuStar would accept tender, Complainant could not become a shipper at Waggaman at its own discretion. Under the tariff, nothing required NuStar to reactivate the Fortier Lateral and amend its tariff to allow Waggaman to exist as an Origin location – connection to NuStar’s system is a shipper’s obligation. Furthermore, NuStar submits that Complainant will not, and cannot, contest the facts regarding the operational status of the Fortier Lateral and the governing tariff provisions – the only real dispute is the legal significance of these facts, which are addressed below in Section III.

**B. The Complaint’s Claims Regarding the Alleged Negotiations Differ From NuStar’s Understanding of the Facts, But Are Irrelevant to the Alleged ICCTA Claim of Unreasonable Practice.**

The Complaint makes numerous claims regarding its negotiations with NuStar as to the restoration of service to the Waggaman plant via the Fortier lateral, including an alleged timeline of assurances by NuStar as to cost and timing, the alleged surprise finding by NuStar that it needed to re-acquire right of way rights due to the long-standing inactive status of the lateral, and allegations that NuStar could have, or should have, either discovered this problem earlier, or should have concluded that it had the necessary rights, and that the contract payments were excessive in some way as a result of NuStar’s “neglect.”<sup>5</sup> NuStar does not agree with these claims, and as stated in the Answer being filed concurrently with this Motion, has an significantly different record of the conduct of the negotiations, the “assurances” provided to Dyno, the need for the re-acquisition of the right of way property rights, and the reasons for the loss of the original rights of the pipeline. The Board need not address all of the conflicting facts,

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<sup>5</sup> Complaint at ¶¶ 13-26.

however, because the facts regarding the alleged missteps of NuStar, the alleged reliance of Dyno, and the alleged gap between the original estimate of the cost of restoration of service on the lateral and the final cost, all appear to be irrelevant to the cause of action alleged by Dyno under the ICCTA and under this Board’s jurisdiction.

Dyno’s factual claims in this respect appear to relate to a claim that the contracts were flawed or coerced or excessive – but they do not appear to bear on the allegations that are the core of the (mistaken) regulatory cause of action – that NuStar had a duty to provide service on the Fortier Lateral and improperly required payments from Dyno for that purpose. As discussed below, this regulatory argument is invalid. However, the Complaint’s factual allegations regarding the supposed misleading actions of NuStar, or its failure to timely inform Dyno of the right of way problem, *etc.*, appear to be claims with no relevance to the alleged “unreasonable practice” and further appear to be claims whose sole relevance is in contract. Consequently, NuStar does not believe it necessary to burden this Motion with a complex counter-narrative, on a subject that should not even be resolved by the Board – except by dismissal.

## **II. STATUTORY AUTHORITY**

According to 49 U.S.C. § 14701(b), the Board may dismiss a complaint that it determines “does not state a reasonable grounds for investigation and action.” The Board has stated that a complaint will be dismissed where the Board finds that there is no basis on which the relief sought can be granted.<sup>6</sup> The Board has also dismissed cases where there is no issue of material fact to be resolved.<sup>7</sup> The Board has also adopted the Interstate Commerce Commission (“ICC”) finding that

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<sup>6</sup> *Grain Land Coop. v. Canadian Pac. Ltd., et. al.*, STB Docket No. 41687, 1999 STB LEXIS 694 at \*4-5 (Dec 8, 1999).

<sup>7</sup> *Gov’t of the Territory of Guam v. Sea-Land Serv., et. al.*, STB Docket No. WCC-101, 2001 STB LEXIS 863 at \*5-7 (Nov. 15, 2001); *Trailer Bridge, Inc. v. Sea Star License, LLC*, STB Docket No. WCC-104, 1999 STB LEXIS 703, at \*3 (Dec. 10, 1999)

“a complaint may be dismissed without holding an evidentiary hearing where the issues involved are essentially legal.”<sup>8</sup>

NuStar will show below that the Complaint fails to establish any genuine issue of fact from which a claim could arise. If the Complaint, anemic as it is, does contain a claim upon which relief could be granted, the Complainant has failed to establish that its claim falls under the jurisdiction of the Board. Therefore, NuStar is entitled to judgement as a matter of law. The Complaint should be dismissed.

### III. ARGUMENT

#### A. NuStar Does Not Have a Duty to Provide Service to Complainant

From the facts presented previously in Section I of this motion, it is readily apparent that during the period in which the Complainant alleges that NuStar had a duty to provide service on the Fortier Lateral, 2012-2015, NuStar did not hold itself out to provide service, and could not provide service because the facilities required to provide such service were inactive and could not be reactivated without expense and effort. Further, Complainants do not allege in their Complaint, as a matter of fact or law, upon what basis any such a duty exists. Without a duty to provide service on the Fortier Lateral, NuStar plainly had the right to require Dyno to compensate it for reactivation costs, and the Complaint fails to state a claim upon which relief can be granted by the Board.

The ICCTA and its predecessor statute, the Interstate Commerce Act (“ICA”)<sup>9</sup> does not

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<sup>8</sup> *DHX, Inc. v. Matson Navigation Co.*, STB Docket No. WCC-105, 2003 STB LEXIS 269, at \*9-10 (May 14, 2003); *see also, Zone Skip, Inc. v. UPS, Inc.*, 8 I.C.C. 2d 645, 1992 ICC LEXIS 151, at \*10 (July 10, 1992), *affd. mem.*, 998 F.2d 1007 (3d Cir. 1993).

<sup>9</sup> The Board has recognized that the substantive law of the provisions of the ICCTA corresponding to the historic provisions of the ICA are governed by Interstate Commerce Commission (“ICC”) and judicial precedents under the ICA. *See, e.g., CSX Corp. – Control – Chessie System, Inc. and Seaboard Coast Line Industries, Inc.*, STB Docket No. 28905, 1996 STB LEXIS 136, at note 1 (April 29, 1996); *V&S Railway, LLC – Petition for Declaratory Order*, STB Docket No. FD 35459, 2012 STB LEXIS 259, at \*5 (July 12, 2012).

impose a duty on the part of an existing common carrier pipeline company to extend its facilities in order to provide new service to a customer. Under the ICA, a common carrier pipeline (unlike a railroad) may cease to provide service at any time, and such determination is separate from the duty to provide reasonable service while engaged in business.<sup>10</sup> Similarly, the determination to provide new service is specifically within the purview of the pipeline, as are the terms and conditions under which the pipeline will agree to undertake any necessary expenses or extend facilities.<sup>11</sup> The ICA does not require a pipeline to offer a specific service; rather, it requires a pipeline engaged in common carrier service to furnish transportation upon reasonable request without discrimination. The Complaint fails to acknowledge that NuStar did not provide service to Waggaman for more than 15 years – only reestablishing service in 2016. Instead the Complaint suggests that because, at one time, NuStar provided service to the point at which the Waggaman plant is located, NuStar somehow has an ongoing obligation to re-commence service to that area, despite not possessing an operational pipeline segment extending to Waggaman. However, as shown above in Section I, the facts are quite clear that NuStar no longer provided service in the area when it was contacted by the Complainant.

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<sup>10</sup> *Lucking v. Detroit & Cleveland Navigation Co.*, 265 U.S. 346, 350-351 (1924); *see also ARCO Pipe Line Co.*, 66 F.E.R.C. ¶ 61,159 (Feb. 2, 1994) (“ARCO’s cancellation of its southbound routes does not involve a classification, regulation, or practice over which the Commission has authority under the ICA to consider its reasonableness. Those terms relate to the classification of property carried and to the reasonableness of the service provided. They do not apply when the oil pipeline discontinues service on routes for all shippers and all classes of property.”).

<sup>11</sup> *See, e.g., BP West Coast Products, LLC v. FERC*, 374 F.3d 1263, 1296-1297 (D.C. Cir. 2004)(Court affirmed FERC’s determination that entry and exit of an oil pipeline was a business decision outside the Commission’s jurisdiction); *Cities of Auburn and Kent, WA – Petition for Declaratory Order – Burlington Northern Railroad Co. – Stamped Pass Line*, STB Docket No. 33200, 1997 STB LEXIS 143, at \*10 note 11 (July 2, 1997) (Upgrading, maintaining, or rehabilitating a line are actions within the railroad’s management discretion); *In the Matter of Investigation into the Lawfulness of Interchange Arrangements Between the Bangor and Aroostook Railroad and CP Rail at Brownville Junction, ME*, 1988 ICC LEXIS 22, at \*16 (Jan. 27, 1988) (ICC sought to strike a balance that did not constrain “carrier’s legitimate business decisions to promote efficient operations thereby improving revenue positions...”).

NuStar’s predecessor operators provided service on the Fortier Lateral prior to the late 1990s, although the Complaint fails even to allege, much less demonstrate that service was previously provided to Waggaman. The Complaint does not deny that for at least 15 years prior to 2014,<sup>12</sup> no service was being provided on the Fortier Lateral, and does not deny that NuStar had to undertake a number of steps, and to incur expenses, in order to establish service on the Fortier Lateral. Instead, Complainant vaguely argues that NuStar never abandoned service to Waggaman<sup>13</sup> – although the Complaint does not define or explain what it considers to constitute abandonment, and what relevance “abandonment” of the facilities has in this case. NuStar does not need to demonstrate “abandonment”; the Complaint admits that the Fortier Lateral could not be used for transportation service without significant work being done. This work was reflected in a preliminary estimate by NuStar of nearly a million dollars for costs required for resumption of service.<sup>14</sup> Complainant apparently accepted the original cost estimate from NuStar.<sup>15</sup> In addition, although Complainant asserts (vaguely and without legal argument or support) that NuStar should have known earlier that it lost its easement rights on the Fortier Lateral,<sup>16</sup> and (vaguely and without support) second-guesses whether NuStar correctly understood the law governing its easements,<sup>17</sup> the Complaint itself admits that NuStar expended significant monies to restore service by negotiating new easements. Consequently, the Complaint admits that NuStar could not provide service on the line between 2012 and 2016, admits that the line was not physically capable of commencing service without restoration work, and admits that NuStar

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<sup>12</sup> Complaint at ¶ 17.

<sup>13</sup> Complaint at ¶ 12.

<sup>14</sup> Complaint at ¶ 15.

<sup>15</sup> Complaint at ¶ 15.

<sup>16</sup> Complaint at ¶ 19.

<sup>17</sup> Complaint at ¶ 28.

concluded that it had to acquire renewed land rights to the right of way, and did so. All of these facts support the conclusion that NuStar was not holding itself out to provide service from Waggaman prior to February 2016, that the Fortier Lateral was not available for service prior to 2016, and that it was not an operating segment of the NuStar system for purposes of accepting anhydrous ammonia tenders by Complainant, until 2016. Further, the Complainant *acknowledges* that its dispute with NuStar, specifically the recovery of costs incurred in order to restore the right-of-way, occurred prior to any service being provided.<sup>18</sup>

In light of these facts, NuStar submits that the Complainants fail to establish any basis for the claim that NuStar engaged in an unreasonable practice by negotiating with Complainant in order to obtain the funds by which NuStar's system could be extended to serve Waggaman. The Complaint fails to establish any facts or any legal precedents or supporting theory showing that NuStar had a duty to provide service. Such a showing would be essential to establish that the Board should grant any relief – or indeed that the Board is the appropriate entity to hear its challenge as to the recovery of Dyno's contracted-for, agreed-upon contributions to allow the extension of NuStar's system to Waggaman.

Further, a detailed review of the facts presented in the Complaint, NuStar's Answer, and herein shows that, even assuming that all of the Complainant's claims are true, it cannot establish that NuStar had a duty to provide service. Therefore, NuStar is entitled to judgment as a matter of law, and the Complaint should be dismissed.

**B. Requiring Payment of Costs In Aid of Construction Is Not an Unreasonable Practice**

The Complaint alleges that NuStar's requirement that the Complainant pay for the cost of

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<sup>18</sup> Complaint at ¶ 34.

re-establishing the right-of-way is an unreasonable practice. While the Complaint fails to correctly identify this commonplace industry practice by name, it appears that the Complaint is challenging, generally, the application of a “contribution in aid of construction,” otherwise known as a “CIAC”.

The application of a cost in aid of construction is a common and widespread practice in the pipeline and utility industry.<sup>19</sup> Even in instances where a potential customer is within a utility’s service area, and therefore a duty to provide service exists, a cost in aid of construction may be applicable to recovery the necessary expenditures made in order to connect the customer to the system. Although the Complainant states that the practice of collecting a cost in aid of construction “violates the Board’s established policy,”<sup>20</sup> the Complainant provides no explanation of the alleged policy, or how the alleged policy relates to these facts, and provides no citations to any Board decisions applying or explaining this alleged policy. NuStar has not yet located decisions in which the Board expressed a policy that disallowed CIACs for pipeline common carriers, and specifically CIACs associated with necessary extension of facilities in order to initiate service.

There is also no dispute as to the facts of the cost in aid of construction challenged by the Complainant. NuStar admits in its Answer that it entered into a series of contractual agreements prior to the commencement of service which required Complainant to pay for the costs associated with re-establishing the right-of-way, as these costs were necessary in order for NuStar to establish service to the Complainant’s facilities. Complainants have failed to articulate

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<sup>19</sup> *Columbia Gas Transmission Co. v. FERC*, 448 F.3d 382, 384 (D.C. Cir 2006) (“Columbia Gas”) (“‘Contributions in aid of construction’ (‘CIACs’) are fees a customer pays to a supplier to ensure that a pipeline is built...”)

<sup>20</sup> Complaint at ¶ 34.

any way in which the recovery of costs in aid of construction, a common industry practice, violates the Board's policies. NuStar is entitled to judgment as a matter of law on this issue, because the Complaint fails to establish that the recovery of costs in aid of construction are an unreasonable practice, and, conversely, NuStar has shown that its practice is consistent with widely used industry standards that have been approved by many agencies and courts.<sup>21</sup>

**C. Any Cause of Action by Complainant Arises from a Contract Claim, Which is Not Appropriate for Determination by the Board**

As established previously in this motion, NuStar does not have a duty to commence providing service to the Complainant at an origin located away from its system. Any obligation that NuStar might owe the Complainant to re-commence service by reactivation of the Fortier Lateral arises from the agreement between the parties, which included a requirement of payment by the Complainant to cover the cost required to re-establish the right-of-way that contains the currently idled lateral connection.

The Board does not generally resolve contract disputes.<sup>22</sup> Further, the Board is not authorized to award damages arising from claims governed by state law, including easements and contract disputes.<sup>23</sup> While the Complaint fails to specify the relief it seeks from the Board, whatever relief requested is associated with the agreement to pay for the costs associated with the reestablishment of the right-of-way. These costs were established in an agreement which is subject to the state laws of Louisiana, and the costs are directly related to the acquisition of property rights in the state of Louisiana. The dispute arises in contract and property law, and not

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<sup>21</sup> See, e.g., *Columbia Gas*, 448 F.3d *supra* (CIACs are used by pipelines to ensure construction); *National Railroad Passenger Corp. and Consolidated Rail Corp.*, ICC Docket No. 32467, 1995 ICC LEXIS 338 (January 19, 1996) (Railroad could seek reimbursement from Amtrak for costs incurred because of Amtrak); *Florida Gas Transmission Co., LLC*; 132 F.E.R.C. ¶ 61,040 (July 15, 2010) (Commission approved agreement between pipeline and shipper to use CIAC); *Florida Power & Light Co.*, 67 F.E.R.C. ¶ 63,006 (May 9, 1994) (Prior CIAC contribution did not preclude reservation charge).

under the Interstate Commerce Act. Therefore, these are matters for a court of general jurisdiction, and not the special jurisdiction of the Board. The Board should dismiss the Complaint, so that it can be re-filed in a court that has proper jurisdiction over the subject matter of the Complaint.

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<sup>22</sup> See, e.g., *City of Alameda*, STB Docket No. 34798, 2006 STB LEXIS 184 (April 3, 2006); *Allied Erecting and Dismantling, Inc., and Allied Industrial Development Corp. – Petition for a Declaratory Order*, STB Docket No. FD 35316, 2013 STB LEXIS 407 (Dec. 20, 2013).

<sup>23</sup> See, e.g., *Allied Erecting and Dismantling, Inc., and Allied Industrial Development Corp. – Petition for a Declaratory Order*, STB Docket No. FD 35316, 2013 STB LEXIS 407 (Dec. 20, 2013).

#### IV. CONCLUSION

WHEREFORE, in consideration of the above and foregoing, NuStar respectfully requests that the Board:

1. Grant this Motion to Dismiss the Complaint of Dyno, with prejudice, finding that the Complaint fails to state a claim upon which relief can be granted;
2. Award NuStar its costs and fees incurred in defense of this action; and
3. Grant NuStar such additional relief as it deems proper.

Respectfully submitted,

By: \_\_\_\_\_ /s/

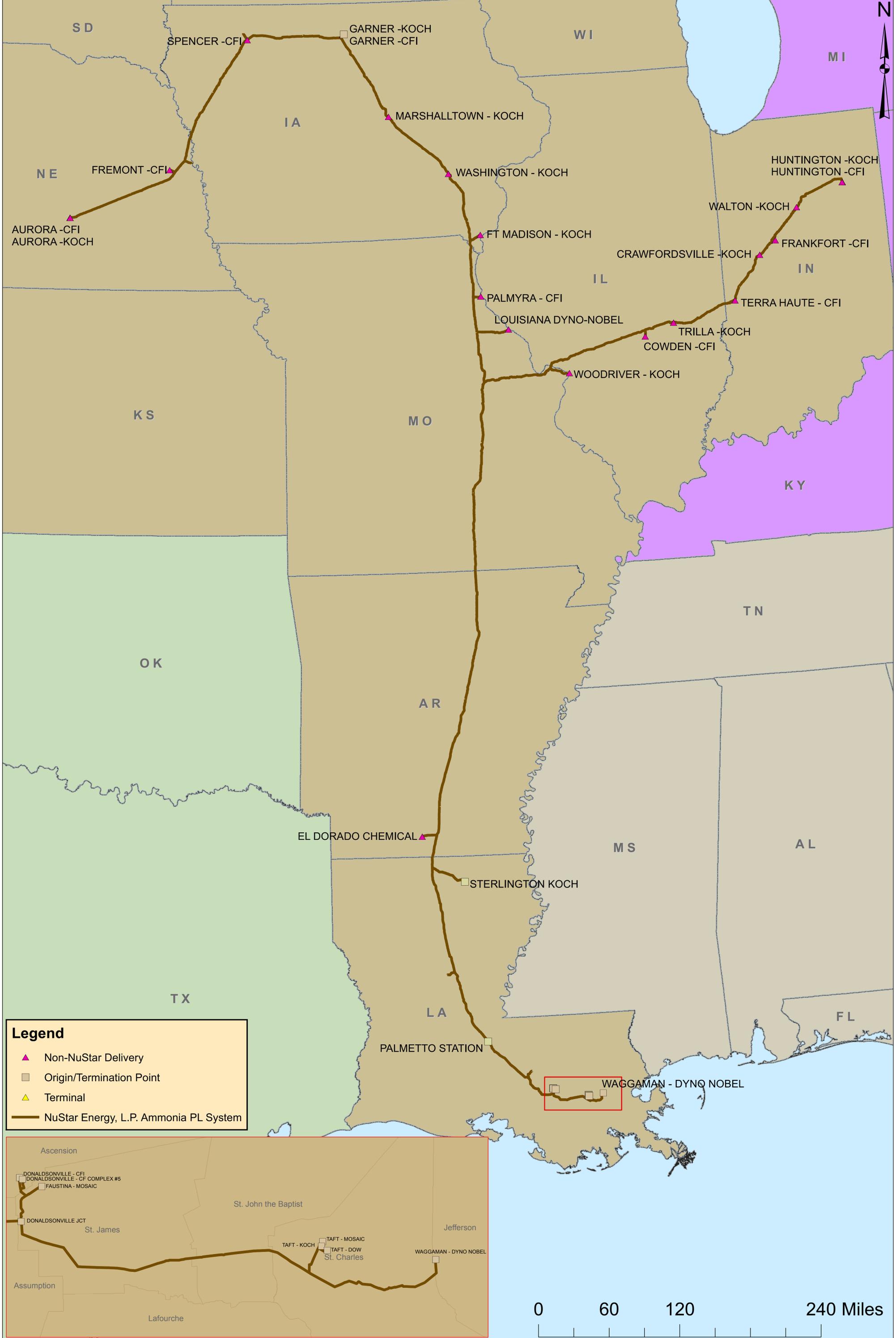
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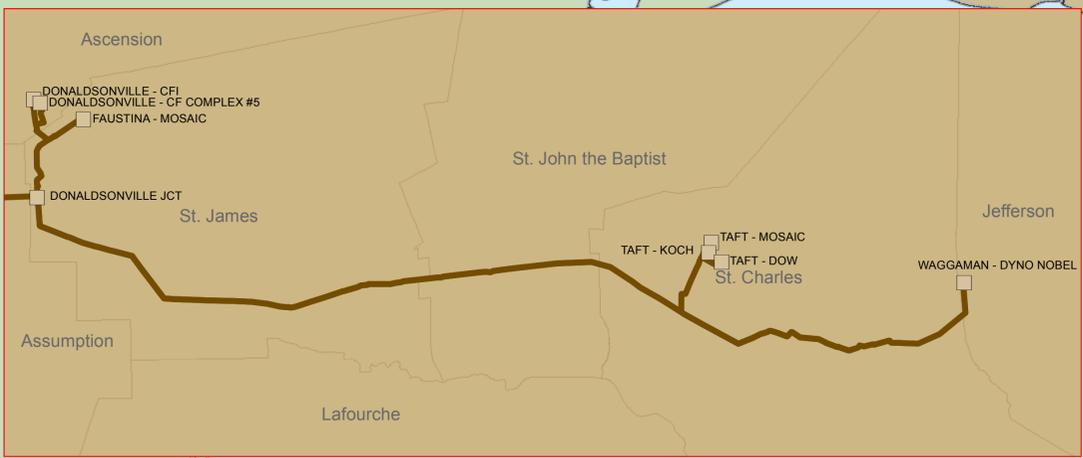
Dated: July 20, 2016

# **ATTACHMENT A**



**Legend**

- ▲ Non-NuStar Delivery
- Origin/Termination Point
- ▲ Terminal
- NuStar Energy, L.P. Ammonia PL System



# **ATTACHMENT B**

# NuStar Pipeline Operating Partnership, L.P.

## LOCAL TARIFFS

Applying on

### ANHYDROUS AMMONIA

As Defined in Item No. 1

#### TRANSPORTED BY PIPELINE FROM AND TO POINTS NAMED HEREIN

The rates named in this Tariff are expressed in dollars per Ton and are subject to change as provided by law, also to regulations named herein.

Rates, Rules and Regulations applying on Interstate Traffic issued on authority of the Surface Transportation Board (S.T.B.).

Issued to establish a temporary rate from El Dorado, AR to Louisiana, MO to expire effective August 12, 2016. The temporary rate was requested by at least one non-affiliated shipper due to a maintenance outage. NuStar anticipates the maintenance outage to be alleviated by August 12, 2016.

The rates published herein will have no effect on the quality of the human environment.

S.T.B.	Issue Date: July 12, 2016	Effective Date: July 12, 2016
L.P.S.C.	Issue Date: May 11, 2016	Effective Date: May 15, 2016

**Issued By:**

Danny Oliver, Sr. Vice-President

**Compiled By:**

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**ABBREVIATIONS AND REFERENCE MARKS**

S.T.B.	Surface Transportation Board
L.P.S.C.	Louisiana Public Service Commission
No.	Number
[S]	Intrastate rate only
[U]	Unchanged rate
[T]	Temporary rate expires August 12, 2016

POINTS FROM WHICH RATES APPLY	ITEM NUMBER	POINTS TO WHICH RATES APPLY ( unless otherwise indicated in Section 2 rate sheet)	ITEM NUMBER
Donaldsonville, LA	130	Aurora, NE	130, 160
Garner, IA	130	Blair, NE	130, 160
Taft, LA	130	Cowden, IL	130
Sterlington, LA	130	Crawfordsville, IN	130
Waggaman, LA	130	Donaldsonville, LA	130
El Dorado, AR	130	El Dorado, AR	130
		Faustina, LA	130
		Fort Madison, IA	130
		Frankfort, IN	130
		Fremont, NE	130, 160
		Garner, IA	130
		Hermann, MO	130
		Huntington, IN	130
		Iowa Falls, IA	130
		Louisiana, MO	130
		Marshalltown, IA	130
		Palmyra, MO	130, 150
		Plaquemine, LA	130
		Spencer, IA	130, 160
		Sterlington, LA	130
		Taft, LA	130
		Terre Haute, IN	130
		Trilla, IL	130
		Walton, IN	130
		Washington, IA	130
		Wood River, IL	130, 135, 140

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(Cancels L.P.S.C. No. 12 )  
Effective: May 15, 2016

S.T.B. No. 22  
(Cancels S.T.B. No. 21)  
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## SECTION 1

### RULES AND REGULATIONS

The NuStar Pipeline Operating Partnership, L.P hereinafter referred to as "Carrier", will receive anhydrous ammonia for transportation under the following conditions:

**Item No. 1 Anhydrous Ammonia Defined**

The term "Ammonia", as used herein, means liquid anhydrous ammonia that meets the specifications issued by the Carrier.

**Item No. 5 Ton Defined**

A "Ton" of Ammonia, as used herein, shall mean two thousand (2,000) pounds avoirdupois, and shall be equivalent to three hundred eighty-seven and twelve hundredths (387.12) U.S. gallons at sixty degrees Fahrenheit (60° F.) and equilibrium vapor pressure.

**Item No. 10 Carrier Defined**

Carrier shall mean NuStar Pipeline Operating Partnership, L.P.

**Item No. 15 Shipper Defined**

Shipper shall mean the party who contracts with Carrier for the transportation of Ammonia under the terms of this tariff.

**Item No. 16 Capacity Defined**

The quantity of Ammonia the Pipeline Segment at issue is capable of transporting under the current operating conditions.

**Item No. 17 Destination Defined**

A point named in the tariff at which point Carrier will deliver Ammonia to Shipper or its designee after transportation from an Origin.

**Item No. 18 Origin Defined**

A point named in the tariff at which point Carrier will accept Ammonia for transportation.

**Item No. 19 Pipeline Segment Defined**

Section of Carrier's common carrier facilities, the limits of which are defined by two geographically identifiable points, that, because of the way that section of Carrier's common carrier facilities is designed and operated, must be treated as a unit for purposes of determining Capacity.

**Item No. 20 Fortier Lateral Defined**

That certain Pipeline Segment between Waggaman, LA and Taft, LA.

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**Item No. 25 Ammonia Acceptance Specifications**

Ammonia shall be accepted for transportation at Origin, and Ammonia shall be delivered by Carrier at Destination, only when such Ammonia meets all required specifications:

Temperature:	Not less than 35 degrees Fahrenheit., nor more than 85 degrees Fahrenheit
Ammonia (NH3) Content:	99.5% minimum by weight
Water Content:	0.2% minimum by weight
Oil Content by Weight:	5 parts per million maximum
Inerts:	0.5cc per gram maximum

When requested, Shipper shall furnish Carrier with a document setting forth the specifications of each daily shipment of Ammonia delivered into Carrier's pipeline. Shipper shall indemnify and save Carrier harmless from any loss sustained by other Shippers or by Carrier by reason of contamination or damage to other Ammonia in Carrier's custody or by reason of damage to Carrier's pipeline or other facilities caused by failure of the materials accepted for transportation to be Ammonia as prescribed in this item. Carrier may sample and test any such shipment prior to acceptance or during receipt, and in the event of variance between Shipper's document and Carrier's test, the latter shall prevail.

**Item No. 35 Measurement**

Product shall be measured by Carrier on receipt and delivery. Observed volume at operating pressure and temperature shall be converted to weight by using the factors obtained in Carrier's Gauge Manual.

**Item No. 37 Loss Allowance**

Carrier will deduct three-tenths of one percent (0.3%) from all injections each day as a loss allowance. Adjustment will be made to Shipper on an annual basis within 180 days following December 31 of each year based on an over/short report prepared by Carrier. Losses will be adjusted to the actual amount but not to exceed 0.3% loss.

**Item No. 40 Acceptance Free From Liens and Charges**

The Carrier shall have the right to reject any Ammonia when tendered for shipment which may be involved in litigation or the title of which may be in dispute or which may be encumbered by lien or charge of any kind and it may require of the Shipper or its designee proof of his perfect and unencumbered title or a satisfactory indemnity bond.

**Item No. 45 Duty of Carrier**

Carrier shall, subject to Item No. 65, transport to Destination the quantity of Ammonia accepted for transportation.

**Item No. 50 Identity of Shipment**

Carrier will not maintain identity of Ammonia but will deliver from its common stream.

**Item No. 55 Day Defined**

A "day" as used herein shall mean the twenty-four (24) hours between 12:00 a.m. of the present day and 12:00 a.m. of the following day.

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#### **Item No. 60 Calendar Week Defined**

The "calendar week" as used herein shall mean the one hundred sixty-eight (168) hours between 12:00 a.m. Monday and 12:00 a.m. the following Monday.

#### **Item No. 65 Scheduling of Shipments**

Ammonia shall be accepted for transportation at such time and in such quantities as scheduled by Carrier. Such schedules may be modified from time to time in the manner and to the extent reasonably desirable to facilitate and to reasonably accommodate Shipper's or its designee's need for transportation.

When a quantity of Ammonia is tendered by Shippers to Carrier which exceeds the Capacity of any Pipeline Segment from an Origin to a Destination, Ammonia tendered by each Shipper for transportation from that Origin to that Destination will be transported in such quantities and at such times to the limit of Carrier's Capacity in a manner determined by Carrier to be equitable to all Shippers. The details of this procedure are set out in the following paragraphs.

1. Definition of terms. Except where the context requires another meaning, the following terms have the following meanings:
  - 1.1. "New Shipper" means a Shipper that has not delivered Ammonia to any Destination on the Pipeline Segment to be prorationed within the Base Period. A Shipper that becomes a New Shipper shall remain one for the following 12 consecutive months.
  - 1.2. "Regular Shipper" means a Shipper that is not a New Shipper.
  - 1.3. "Current Tender Basis" means that the portion of Capacity available pursuant to Section 2.2 contained in Item No. 65 to New Shippers will be allocated among all New Shippers in proportion to the volumes of Ammonia tendered by each New Shipper for that month in accordance with Item No. 80.
  - 1.4. "Base Period" is the 12-calendar-month period just preceding the Calculation Month. Individual months within the Base Period are designated by Nos. 1 through 12, with "Month 1" being the most recent Base Period month and "Month 12" being the oldest Base Period month.
  - 1.5. "Base Shipment Percentage" for each Regular Shipper is the total deliveries of Ammonia to all Destinations on the Pipeline Segment to be prorationed by the Regular Shipper during the Base Period divided by the lesser of (a) 12 or (b) the number of Base Period month within which the Regular Shipper first delivered Ammonia to a Destination on the Pipeline Segment to be prorationed.
  - 1.6. "Calculation Month" is the calendar month immediately preceding the month for which Capacity is being prorationed.
2. Prorationing of Capacity.
  - 2.1. When Capacity will be prorationed. Carrier will allocate Capacity among all Shippers for any month for which the Carrier determines, at its sole discretion, that the aggregate volume of Ammonia that all Shippers tender to all Destinations in a Pipeline Segment exceeds Capacity. Proration will be applied separately to each Pipeline Segment where a need for prorationing shall arise.
  - 2.2. Availability and Allocation of Capacity to New Shippers. Up to 10 percent of Capacity shall be made available to New Shippers and will be prorationed among them on a Current Tender Basis.
  - 2.3. Availability of Capacity to Regular Shippers. After the allocation of the portion of Capacity to New Shippers that is required by Section 2.2 contained in Item 65, the remaining portion of Capacity for that month shall be available to Regular Shippers who have tendered volumes for that month.
  - 2.4. Allocation to each Regular Shipper. Such remaining portion of Capacity shall be allocated among Regular Shippers in proportion to their Base Shipment Percentages. In the event that the volume of Ammonia that would be allocated to a Shipper on the basis of its Base Shipment

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- Percentage is greater than the volume it tenders, the difference between its volume calculated on the basis of its Base Shipment Percentage and its volume tendered will be reallocated among all other Regular Shippers in proportion to their Base Shipment Percentages.
- 2.5. Any remaining prorated allocation of Capacity after Section 2.5 reallocation among all Regular Shippers in proportion to their Base Shipment Percentages shall be made available to New Shippers and will be prorated among them on a Current Tender Basis.
  - 2.6. Basis of allocation: notification. When prorating of Capacity is in effect Capacity shall be allocated among eligible Shippers on a monthly basis; and the Carrier shall use reasonable efforts to notify each Shipper entitled to an allocation of a portion of Capacity of the amount of its allocation no later than the 25th day of the month preceding the month for which the allocation is made.
  - 2.7. Good Faith Tenders. Carrier will accept only good faith tenders from Shippers and Carrier shall use whatever reasonable means necessary to determine whether tenders are made in good faith. Good Faith means the non-contingent ability and willingness of Shipper to deliver to Carrier at the Origins specified and receive from Carrier at the Destinations specified in the tender all of the Tons tendered during the month for which the tender is made.
  - 2.8. Failure to use allocated portion of Capacity. If a New Shipper making a good faith tender fails to deliver at the Origins and receive at the Destinations specified by it in its tender, Ammonia sufficient to fill the portion of Capacity allocated to it and such failure has not been caused by force majeure, as substantiated in a manner satisfactory to the Carrier, Carrier will reduce such Shipper's allocation for the next proration period after the end of the month during which such failure occurred for which such Shipper tenders as a New Shipper by the allocated portion of Capacity not utilized.
  - 2.9. Transfer of Base Shipment Percentage or allocated portion of Capacity; use of affiliates. Neither a Shipper's Base Shipment Percentage nor volumes allocated to it during a period when prorating is in effect shall be assigned, conveyed, loaned, transferred to, or used in any manner by, another Shipper. However, a Shipper's Base Shipment Percentage or its allocation may be transferred as an incident of the bona fide transfer if the Shipper's business or to a successor to the Shipper's business by the operation of law, such as an executor or trustee in bankruptcy. A Shipper may not use an affiliated or cooperating entity to increase its Base Shipment Percentage or its allocated portion of Capacity. All transfers made pursuant to this section shall be irrevocable.
  - 2.10. Enhancement of Allocation. In no event will an allocation to a Shipper be used in such a manner that will enhance the allocation of another Shipper beyond the allocation that such Shipper would be entitled to under this policy. Carrier may require written assurances from a responsible officer of Shipper regarding its use of its allocated portion of Capacity stating that Shipper has not violated this policy. In the event any Shipper shall, by any device, scheme or arrangement whatsoever, attempt to transfer all or any part of its allocated portion of Capacity to any other Shipper in violation of this policy, or in the event any Shipper shall attempt to receive and use such portion of Capacity, the portion of Capacity allocated to such Shipper will be reduced in the next month that is subject to prorating after the date that the violation is discovered by a volume equal to such attempted transfer.

#### **Item No. 70 Facilities Required at Origin**

Product shall be accepted by Carrier only when Shipper or its designee has provided facilities for delivery of product into Carrier's system at pressures and flow rates required by Carrier. There shall be a meter station at each point of Origin which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered to Carrier. Each meter station at each point of Origin shall be provided and operated by the Shipper or its designee, except that the Carrier shall have access to each such meter station at all reasonable times and shall be responsible for the maintenance and calibration of the meter. Meter stations shall be built to the specifications of the Carrier.

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Pumps at points of Origin shall be built to the specification of the Carrier and shall be maintained and operated according to instructions of the Carrier. All other facilities associated with connection with the Carrier's pipeline, including storage tanks, surge tanks, pumps, associated piping, and valves at Origin shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld.

#### **Item No. 75 Facilities Required at Destination**

There shall be a meter station at each point of Destination which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered at Destination. The Carrier will provide and operate meter stations at outlets at points of Destination. For metering service at points of Destination there is a charge of [U] twenty cents (\$0.20) per Ton of Ammonia. A Shipper may, at its option, pay a nonrecurring charge of [U] twenty thousand dollars (\$20,000.00) for the use of a Destination point, and in that event, no charge for metering service will be made to that Shipper in respect of Ammonia delivered at that point.

All other facilities associated with the Carrier's pipeline, including storage tanks, surge tanks, associated piping, and valves at Destination shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld. Ammonia will be accepted for transportation only when the Carrier has ascertained from the Shipper that the Shipper or its designee has adequate facilities at Destination which are available for receipt of shipment as it arrives without delay.

#### **Item No. 80 Schedule**

Any Shipper may tender a designated quantity of Ammonia to be transported during a designated month between points on Carrier's system. Such tenders shall be delivered to the Carrier prior to the 20th day of the month preceding the designated month. Carrier shall notify Shipper of its ability to transport the tender quantity during the designated month on or before the first day of that designated month. If there is insufficient capacity available to ship all quantities specified by such tenders, the Carrier will prorate the capacity available on an equitable basis among the Shippers making such tenders. See Item No. 65 for the details of proration of pipeline Capacity.

Any quantity of Ammonia transported pursuant to this Item, during a designated month or other period, shall be delivered to the Carrier for transportation in approximately equal daily quantities.

Any Shipper wishing to utilize capacity other than as specified herein may make a tender designating the quantity of Ammonia sought to be shipped, the points of Origin and Destination, the desired period of shipment and other requirements of the movement. The Carrier will accommodate any such Shipper to the extent it is able to do so, having regard for the rights of other Shippers and the economic utilization of the Carrier's facilities.

#### **Item No. 90 Retendering of Product**

The following procedure will be observed for product delivered to the final Destination:

Upon written notice by the Shipper as specified in Item No. 80, product may be retendered from locations (if equipped and agreed upon by Shipper or its designee) named in various pipeline tariffs for a period not to exceed twelve (12) months after the initial receipt of that product at that Destination.

On product reshipped from a Destination to a revised final Destination pursuant to this Item No. 90: (1) there is a retendering charge of [U] fifty cents (\$0.50) per Ton for each Ton of Ammonia retendered by a Shipper to the Carrier pursuant to this item; (2) the rate to be collected for the reshipped product shall be the rate from Origin to revised final Destination, as in effect on the date of actual

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retendering, minus the rate paid for service from original point of shipment of that product to the initial Destination, plus meter charge (if applicable) at revised final Destination; (3) back-haul from original Destination to revised final Destination will be permitted without any additional charge (other than the \$0.50 covered in (1) of this paragraph).

Shipper may retender a quantity of Ammonia at the Destination point so long as there is sufficient transportation capacity, including pumping, metering, and other associated facilities, to accommodate such tendered Ammonia at the time it is sought to be tendered. Product which has originally been shipped past the pipeline J-1 pump station located near Hermann, Missouri, or original Origin, shall not be allowed a back-haul past that point.

Not more than one stop for retendered product shall be authorized.

**Item No. 95 Payment of Carrier Charges**

Carrier will invoice Shipper for transportation charges and Shipper shall pay all transportation and other lawful charges accruing on Product delivered to and accepted by Carrier for shipment. Carrier will invoice Shipper at the conclusion of each Calendar Week (see Item No. 60). If required, Shipper shall pay the same before delivery at Destination. All charges shall be paid by Shipper within ten (10) days of the date of invoice from Carrier. All payments by Shipper to Carrier shall be made by Automated Clearing House (ACH) debit initiated by Carrier on or before the due date of invoice. All charges that remain unpaid for more than thirty (30) days from the date of Carrier's invoice shall accrue an interest charge of the lesser of (i) eighteen (18%) percent per annum, or (ii) the maximum non-usurious interest rate which may then be charged under applicable law.

If charges remain unpaid for 45 days past Carrier's invoice then the Carrier shall have the right, after five (5) days' written notice to Shipper, to refuse receipts of any product into Carrier's pipeline for future delivery and Carrier reserves the right to off-set any such charges against any monies owed by Shippers product inventory in Carrier's custody.

**Item No. 105 Liability of Carrier**

The Carrier's custody of Ammonia begins when Ammonia passes the block valve downstream from the Shipper's pump station at a point of Origin and ends when Ammonia passes the block valve downstream from the Carrier's meter station at a point of Destination.

The Carrier will not be liable to a Shipper for any loss, vandalism, delay, discoloration, contamination, or deterioration that is caused by a breach of the warranty described in Item No. 25, negligence or other fault on the part of such Shipper, or by act of God or public enemy, quarantine, authority of law, governmental requirement or restriction, strike, lockout, labor difficulty, injunction, riot, fire, explosion, flood, accident, breakage of machinery or apparatus, inability to obtain fuel, power, raw materials or storage, or any other cause beyond the Carrier's control, whether or not similar to the foregoing causes, and any such loss, delay, or damage shall be equitably apportioned among Shippers.

**Item No. 110 Failure to Take Delivery**

In the event that a Shipper or its designee fails to take delivery as required, the Carrier shall have the right, upon notice to the Shipper to refuse to accept tenders at points of Origin and to divert, reassign, or make whatever arrangements for disposition of the undelivered Ammonia as the Carrier deems appropriate to clear the pipeline, including the right to sell such product at private sales for the best price obtainable. The Carrier may be a purchaser at any such sale. Out of the proceeds of any such sale, the Carrier may pay itself all transportation and other lawful charges and expenses of sale. The balance shall be held for whomsoever may be lawfully entitled thereto. If the proceeds from the sale are not sufficient to

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pay all transportation and other lawful charges and expenses of sale, the Shipper shall remain liable to the Carrier for the balance. The Carrier's refusal to accept tenders at points of Origin as a result of failure of Shipper or its designee to take delivery shall not in any way relieve Shipper of any commitment for the purchase of transportation and other services.

**Item No. 115 Claim, Time For Filing**

Claim for any delay, damage to, or loss of Ammonia must be made in writing to the Carrier within six (6) months after delivery from the Carrier's facilities of the shipment involved at the Destination to which such shipment was consigned, or in case of failure by Carrier to deliver, then within six (6) months after the date upon which delivery would have reasonably been completed by the Carrier. Such written claim as aforesaid shall be condition precedent to any suit.

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**SECTION 2**

**[U] ALL RATES ON THIS PAGE ARE UNCHANGED UNLESS OTHERWISE INDICATED**

<p><b>LOCAL RATES</b>  <b>for the</b>  <b>TRANSPORTATION OF ANHYDROUS AMMONIA</b>  <b>(as defined in Item No. 1)</b>  <b>BY PIPELINE</b>  <b>All Rates in Dollars per Ton</b>  The rates contained in this section apply only via the lines of the  NuStar Pipeline Operating Partnership, L.P.</p>
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<b>Item No. 130</b>
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FROM TO	Donaldsonville, LA	Sterlington, LA	Taft, LA	Garner, IA	Waggaman, LA <sub>1</sub>	El Dorado, AR
El Dorado, AR	20.51	19.69	20.52	----	20.64	
Hermann, MO	29.95	29.04	30.17	30.17	30.29	29.04
Louisiana, MO	36.65	34.86	36.67	36.78	36.79	[N] [T] <u>34.86</u>
Palmyra, MO	37.30	35.45	37.35	31.20		
Wood River, IL	33.94	32.87	34.15	33.88	34.27	32.87
Cowden, IL	39.09	38.02	39.25	39.09		
Trilla, IL	39.75	38.94	40.06	40.06	40.18	38.94
Fort Madison, IA	41.99	41.06	42.45	29.98	42.57	41.06
Washington, IA	42.93	42.14	43.45	20.52	43.57	42.14
Marshalltown, IA	43.73	42.80	44.02	26.64	44.14	42.80
Iowa Falls, IA	44.08	43.15	44.43	24.78		
Garner, IA	44.73	43.66	45.11	----	45.23	43.66
Spencer, IA	45.54	44.47	45.64	18.64		
Terre Haute, IN	40.93	39.57	41.12	40.93		
Crawfordsville, IN	42.14	41.07	42.42	42.42	42.54	41.07
Frankfort, IN	42.80	41.99	43.12	42.80		
Walton, IN	43.63	42.71	43.79	43.79	43.91	42.71
Huntington, IN	44.78	43.73	45.20	45.20	45.32	43.73
Blair, NE	46.87	45.60	47.06	18.64		
Fremont, NE	47.00	45.67	47.19	18.64		
Aurora, NE	47.60	47.00	47.91	18.64	48.03	47.00
Faustina, LA	[S] 18.64	[S] 18.64	[S] 18.64	----		
Donaldsonville, LA	[S] 18.64	[S] 18.64	[S] 18.64	----		
Taft, LA	[S] 18.64	[S] 18.64	[S] 18.64	----	[S] 18.64	20.52
Sterlington, LA	[S] 18.64	----	[S] 18.64	----	[S] 18.64	19.69
Plaquemine, LA	[S] 18.64	----	[S] 18.64	----	[S] 18.64	20.11

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1 Shipper on the Fortier Lateral shall be required to supply a pro rata share of Ammonia necessary for pipeline linefill on the Fortier Lateral to ensure efficient operation of the system. Ammonia furnished for linefill on the Fortier Lateral will only be returned to Shipper after such Shipper has ceased shipping, provided a written request for return, and after a sixty (60) calendar day time period to allow for administrative and operational requirements associated with the withdrawal of the Ammonia; provided, however, that, in the event Shipper's inventory balance exceeds its pro rata part of the volume of Ammonia necessary for linefill for two (2) consecutive months, then Carrier will return to Shipper the volumes of Ammonia in excess of Shipper's pro rata share within sixty (60) calendar days thereafter.

**Item No. 135 Proportional Credit Program**

The proportional rate credits named in Item No. 140 of this tariff shall apply only on transportation from Origins on Carriers pipeline delivered to Wood River, Illinois for further transportation to Destination(s) specified in Item No. 140. Shippers desiring to avail themselves of the rate credits specified in Item No. 140 are subject to the following rules:

- a) All shipments will remain subject to scheduling requirements under Item No. 80 of this tariff.
- b) Shipper shall pay the corresponding transportation rate from Item No. 130 for the initial transportation from all Origins on Carriers pipeline delivered to Wood River, Illinois.
- c) Shipper shall provide satisfactory documentation to Carrier detailing the subsequent transportation to those Destination(s) identified in Item No. 140. Upon receipt of satisfactory documentation, Carrier will issue a credit to Shipper at the end of each calendar month in accordance with Item No. 140.
- d) Satisfactory documentation shall be subject to an audit by Carrier, or at Shipper's choice, a third party selected by Carrier. If requested by Carrier, Shipper shall certify under oath to the accuracy and veracity of such documentation. If Shipper desires to have a third party perform the audit, Shipper will reimburse Carrier for all fees and expenses of said third party audit.
- e) Any Shipper that takes credit under Item No. 140 for deliveries that are not supported by the appropriate documentation or which documents are shown to be fraudulent, shall be required to return to Carrier all unsupported and/or fraudulent credits and will be prohibited from further program participation.
- f) Shipments under this program may be made, only when there is sufficient transportation capacity, including pumping, metering and other associated facilities to accommodate such shipments.
- g) Item No. 135 and Item No. 140 of this tariff, in their entirety is in effect until further notice of change or cancellation.

**Item No. 140 Proportional Credit Rates**

For the transportation of anhydrous ammonia, as defined in Item No. 1, by pipeline. All rates in dollars per ton. A Shipper transporting Product under the provisions of Item No. 135 will receive the following credit(s):

From	To	Proportional Destination	Rate (Credit)
Taft, LA	Wood River, IL	Various barge served destinations from Wood River, IL	[U] 2.00

**Item No. 145 Five Year Palmyra, MO Incentive Program**

Any Shipper who delivers Ammonia out of the system at Palmyra, MO, desiring to avail themselves of the Incentive Rates as set forth in Item 150 must satisfy all of the following provisions.

- a) Shipper must enter into a prior written commitment with Carrier.

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- b) The Commitment Term shall be sixty (60) months, but not longer than the effectiveness of this Item or any successive issues, reissues and amendments thereto.
- c) The Annual Commitment Volume shall be equal to the amounts specified in Item 150. Subject to Item 65, Carrier shall not be obligated during any one calendar month to deliver more than two hundred percent (200%) of the prorated monthly Minimum Annual Commitment Volume specified in Item 150.
- d) Shipper transporting Ammonia under the provisions of this Item will pay to Carrier the indicated incentive rate in Item 150. Additionally, Shipper will be responsible for all other applicable charges, rules and regulations contained within this tariff.
- e) Annually, on July 1<sup>st</sup>, Carrier may increase the rates set out in Item 150 by the FERC Annual Index. If the applicable FERC Annual Index is negative in any year, the rates will remain unchanged for that year.
- f) If pipeline service to Palmyra, MO is available less than ninety five (95%) in any one quarter of the Commitment Year and Carrier was not able to provide the volumes nominated by shipper in such quarter, Shipper may assert a claim of Carrier's failure to provide service in writing to Carrier within the first fifteen (15) days following the end of each quarter. A Shipper bears the burden of proof in showing that Carrier's failure to provide service did, in fact, result in the Shipper's failure to meet its commitment obligations at the end of each Commitment Year.

**Item No. 150 Five Year Palmyra, MO Incentive Rates (All rates in Dollars per Ton)**

A Shipper transporting Ammonia under the provisions of Item 145 will pay to Carrier the indicated incentive rate that corresponds to the Annual Five Year Commitment Tonnage.

Additionally, any Shipper that participates in Item 145 that transports Ammonia greater than 105,000 tons in a Commitment Year shall pay Item 130 Rates on the volumes that are greater than 105,000 tons in that Commitment Year.

Minimum Annual Commitment Ton Volume	Total Five Year Commitment Ton Volume	Rate in Dollars per Ton
60,000	350,000	[U] \$ 23.56

L.P.S.C. No. 13  
 (Cancels L.P.S.C. No. 12 )  
 Effective: May 15, 2016

S.T.B. No. 22  
 (Cancels S.T.B. No. 21)  
 Effective: July 12, 2016

**Item No. 160 West Leg Incentive Program (All rates in Dollars per Ton)**

Any Shipper transporting more than 60,000 tons of Ammonia in aggregate, per Calendar Year, from Donaldsonville, LA or Taft, LA to Spencer, IA, Blair, NE, Fremont, NE and Aurora, NE will pay the incentive rates listed below.

From	To	1 to 60,000 tons per Calendar Year	> 60,000 tons per Calendar Year
Donaldsonville, LA or Taft, LA	Spencer, IA	See applicable Item No. 130 Local Rate	[U] \$ 38.76
	Blair, NE		[U] \$40.08
	Fremont, NE		[U] \$40.20
	Aurora, NE		[U] \$40.81

L.P.S.C. No. 13  
 (Cancels L.P.S.C. No. 12 )  
 Effective: May 15, 2016

S.T.B. No. 22  
 (Cancels S.T.B. No. 21)  
 Effective: July 12, 2016

# **ATTACHMENT C**

L.P.S.C. No. 12  
(Cancels L.P.S.C. No. 11)

S.T.B. No. 19  
(Cancels S.T.B. No. 18)

# NuStar Pipeline Operating Partnership, L.P.

## LOCAL TARIFFS

Applying on

### ANHYDROUS AMMONIA

As Defined in Item No. 1

**TRANSPORTED BY PIPELINE  
FROM AND TO POINTS NAMED HEREIN**

The rates named in this Tariff are expressed in dollars per Ton and are subject to change as provided by law, also to regulations named herein.

Rates, Rules and Regulations applying on Interstate Traffic issued on authority of the Surface Transportation Board (S.T.B.).

The rates published herein will have no effect on the quality of the human environment.

S.T.B.	Issue Date: January 27, 2016	Effective Date: February 1, 2016
L.P.S.C.	Issue Date: May 29, 2015	Effective Date: July 1, 2015

**Issued By:**

Danny Oliver, Sr. Vice-President

**Compiled By:**

Adam Cummins, Manager – Tariff and Regulatory Planning

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L.P.S.C. No. 12  
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S.T.B. No. 19  
(Cancels S.T.B. No. 18)  
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NuStar Pipeline Operating Partnership, L.P.

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**ABBREVIATIONS AND REFERENCE MARKS**

S.T.B.	Surface Transportation Board
L.P.S.C.	Louisiana Public Service Commission
No.	Number
[S]	Intrastate rate only
[U]	Unchanged rate
[N]	New

POINTS FROM WHICH RATES APPLY	ITEM NUMBER	POINTS TO WHICH RATES APPLY ( unless otherwise indicated in Section 2 rate sheet)	ITEM NUMBER
Donaldsonville, LA	130	Aurora, NE	130, 160
Garner, IA	130	Blair, NE	130, 160
Taft, LA	130	Cowden, IL	130
Sterlington, LA	130	Crawfordsville, IN	130
[N] <u>Waggaman, LA</u>	[N] 130	Donaldsonville, LA	130
		El Dorado, AR	130
		Faustina, LA	130
		Fort Madison, IA	130
		Frankfort, IN	130
		Fremont, NE	130, 160
		Garner, IA	130
		Hermann, MO	130
		Huntington, IN	130
		Iowa Falls, IA	130
		Louisiana, MO	130
		Marshalltown, IA	130
		Palmyra, MO	130, 150
		Plaquemine, LA	130
		Spencer, IA	130, 160
		Sterlington, LA	130
		Taft, LA	130
		Terre Haute, IN	130
		Trilla, IL	130
		Walton, IN	130
		Washington, IA	130
		Wood River, IL	130, 135, 140

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(Cancels S.T.B. No. 18)  
Effective: February 1, 2016

## SECTION 1

### RULES AND REGULATIONS

The NuStar Pipeline Operating Partnership, L.P hereinafter referred to as "Carrier", will receive anhydrous ammonia for transportation under the following conditions:

#### **Item No. 1 Anhydrous Ammonia Defined**

The term "Ammonia", as used herein, means liquid anhydrous ammonia that meets the specifications issued by the Carrier.

#### **Item No. 5 Ton Defined**

A "Ton" of Ammonia, as used herein, shall mean two thousand (2,000) pounds avoirdupois, and shall be equivalent to three hundred eighty-seven and twelve hundredths (387.12) U.S. gallons at sixty degrees Fahrenheit (60° F.) and equilibrium vapor pressure.

#### **Item No. 10 Carrier Defined**

Carrier shall mean NuStar Pipeline Operating Partnership, L.P.

#### **Item No. 15 Shipper Defined**

Shipper shall mean the party who contracts with Carrier for the transportation of Ammonia under the terms of this tariff.

#### **Item No. 16 Capacity Defined**

The quantity of Ammonia the Pipeline Segment at issue is capable of transporting under the current operating conditions.

#### **Item No. 17 Destination Defined**

A point named in the tariff at which point Carrier will deliver Ammonia to Shipper or its designee after transportation from an Origin.

#### **Item No. 18 Origin Defined**

A point named in the tariff at which point Carrier will accept Ammonia for transportation.

#### **Item No. 19 Pipeline Segment Defined**

Section of Carrier's common carrier facilities, the limits of which are defined by two geographically identifiable points, that, because of the way that section of Carrier's common carrier facilities is designed and operated, must be treated as a unit for purposes of determining Capacity.

#### **[N] Item No. 20 Fortier Lateral Defined**

[N] That certain Pipeline Segment between Waggaman, LA and Taft, LA.

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**Item No. 25 Ammonia Acceptance Specifications**

Ammonia shall be accepted for transportation at Origin, and Ammonia shall be delivered by Carrier at Destination, only when such Ammonia meets all required specifications:

Temperature:	Not less than 35 degrees Fahrenheit., nor more than 85 degrees Fahrenheit
Ammonia (NH3) Content:	99.5% minimum by weight
Water Content:	0.2% minimum by weight
Oil Content by Weight:	5 parts per million maximum
Inerts:	0.5cc per gram maximum

When requested, Shipper shall furnish Carrier with a document setting forth the specifications of each daily shipment of Ammonia delivered into Carrier's pipeline. Shipper shall indemnify and save Carrier harmless from any loss sustained by other Shippers or by Carrier by reason of contamination or damage to other Ammonia in Carrier's custody or by reason of damage to Carrier's pipeline or other facilities caused by failure of the materials accepted for transportation to be Ammonia as prescribed in this item. Carrier may sample and test any such shipment prior to acceptance or during receipt, and in the event of variance between Shipper's document and Carrier's test, the latter shall prevail.

**Item No. 35 Measurement**

Product shall be measured by Carrier on receipt and delivery. Observed volume at operating pressure and temperature shall be converted to weight by using the factors obtained in Carrier's Gauge Manual.

**Item No. 37 Loss Allowance**

Carrier will deduct three-tenths of one percent (0.3%) from all injections each day as a loss allowance. Adjustment will be made to Shipper on an annual basis within 180 days following December 31 of each year based on an over/short report prepared by Carrier. Losses will be adjusted to the actual amount but not to exceed 0.3% loss.

**Item No. 40 Acceptance Free From Liens and Charges**

The Carrier shall have the right to reject any Ammonia when tendered for shipment which may be involved in litigation or the title of which may be in dispute or which may be encumbered by lien or charge of any kind and it may require of the Shipper or its designee proof of his perfect and unencumbered title or a satisfactory indemnity bond.

**Item No. 45 Duty of Carrier**

Carrier shall, subject to Item No. 65, transport to Destination the quantity of Ammonia accepted for transportation.

**Item No. 50 Identity of Shipment**

Carrier will not maintain identity of Ammonia but will deliver from its common stream.

**Item No. 55 Day Defined**

A "day" as used herein shall mean the twenty-four (24) hours between 12:00 a.m. of the present day and 12:00 a.m. of the following day.

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#### **Item No. 60 Calendar Week Defined**

The "calendar week" as used herein shall mean the one hundred sixty-eight (168) hours between 12:00 a.m. Monday and 12:00 a.m. the following Monday.

#### **Item No. 65 Scheduling of Shipments**

Ammonia shall be accepted for transportation at such time and in such quantities as scheduled by Carrier. Such schedules may be modified from time to time in the manner and to the extent reasonably desirable to facilitate and to reasonably accommodate Shipper's or its designee's need for transportation.

When a quantity of Ammonia is tendered by Shippers to Carrier which exceeds the Capacity of any Pipeline Segment from an Origin to a Destination, Ammonia tendered by each Shipper for transportation from that Origin to that Destination will be transported in such quantities and at such times to the limit of Carrier's Capacity in a manner determined by Carrier to be equitable to all Shippers. The details of this procedure are set out in the following paragraphs.

1. Definition of terms. Except where the context requires another meaning, the following terms have the following meanings:
  - 1.1. "New Shipper" means a Shipper that has not delivered Ammonia to any Destination on the Pipeline Segment to be prorated within the Base Period. A Shipper that becomes a New Shipper shall remain one for the following 12 consecutive months.
  - 1.2. "Regular Shipper" means a Shipper that is not a New Shipper.
  - 1.3. "Current Tender Basis" means that the portion of Capacity available pursuant to Section 2.2 contained in Item No. 65 to New Shippers will be allocated among all New Shippers in proportion to the volumes of Ammonia tendered by each New Shipper for that month in accordance with Item No. 80.
  - 1.4. "Base Period" is the 12-calendar-month period just preceding the Calculation Month. Individual months within the Base Period are designated by Nos. 1 through 12, with "Month 1" being the most recent Base Period month and "Month 12" being the oldest Base Period month.
  - 1.5. "Base Shipment Percentage" for each Regular Shipper is the total deliveries of Ammonia to all Destinations on the Pipeline Segment to be prorated by the Regular Shipper during the Base Period divided by the lesser of (a) 12 or (b) the number of Base Period month within which the Regular Shipper first delivered Ammonia to a Destination on the Pipeline Segment to be prorated.
  - 1.6. "Calculation Month" is the calendar month immediately preceding the month for which Capacity is being prorated.
2. Prorating of Capacity.
  - 2.1. When Capacity will be prorated. Carrier will allocate Capacity among all Shippers for any month for which the Carrier determines, at its sole discretion, that the aggregate volume of Ammonia that all Shippers tender to all Destinations in a Pipeline Segment exceeds Capacity. Proration will be applied separately to each Pipeline Segment where a need for prorating shall arise.
  - 2.2. Availability and Allocation of Capacity to New Shippers. Up to 10 percent of Capacity shall be made available to New Shippers and will be prorated among them on a Current Tender Basis.
  - 2.3. Availability of Capacity to Regular Shippers. After the allocation of the portion of Capacity to New Shippers that is required by Section 2.2 contained in Item 65, the remaining portion of Capacity for that month shall be available to Regular Shippers who have tendered volumes for that month.
  - 2.4. Allocation to each Regular Shipper. Such remaining portion of Capacity shall be allocated among Regular Shippers in proportion to their Base Shipment Percentages. In the event that the volume of Ammonia that would be allocated to a Shipper on the basis of its Base Shipment

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Percentage is greater than the volume it tenders, the difference between its volume calculated on the basis of its Base Shipment Percentage and its volume tendered will be reallocated among all other Regular Shippers in proportion to their Base Shipment Percentages.

- 2.5. Any remaining prorated allocation of Capacity after Section 2.5 reallocation among all Regular Shippers in proportion to their Base Shipment Percentages shall be made available to New Shippers and will be prorated among them on a Current Tender Basis.
- 2.6. Basis of allocation; notification. When prorating of Capacity is in effect Capacity shall be allocated among eligible Shippers on a monthly basis; and the Carrier shall use reasonable efforts to notify each Shipper entitled to an allocation of a portion of Capacity of the amount of its allocation no later than the 25th day of the month preceding the month for which the allocation is made.
- 2.7. Good Faith Tenders. Carrier will accept only good faith tenders from Shippers and Carrier shall use whatever reasonable means necessary to determine whether tenders are made in good faith. Good Faith means the non-contingent ability and willingness of Shipper to deliver to Carrier at the Origins specified and receive from Carrier at the Destinations specified in the tender all of the Tons tendered during the month for which the tender is made.
- 2.8. Failure to use allocated portion of Capacity. If a New Shipper making a good faith tender fails to deliver at the Origins and receive at the Destinations specified by it in its tender, Ammonia sufficient to fill the portion of Capacity allocated to it and such failure has not been caused by force majeure, as substantiated in a manner satisfactory to the Carrier, Carrier will reduce such Shipper's allocation for the next proration period after the end of the month during which such failure occurred for which such Shipper tenders as a New Shipper by the allocated portion of Capacity not utilized.
- 2.9. Transfer of Base Shipment Percentage or allocated portion of Capacity; use of affiliates. Neither a Shipper's Base Shipment Percentage nor volumes allocated to it during a period when prorating is in effect shall be assigned, conveyed, loaned, transferred to, or used in any manner by, another Shipper. However, a Shipper's Base Shipment Percentage or its allocation may be transferred as an incident of the bona fide transfer if the Shipper's business or to a successor to the Shipper's business by the operation of law, such as an executor or trustee in bankruptcy. A Shipper may not use an affiliated or cooperating entity to increase its Base Shipment Percentage or its allocated portion of Capacity. All transfers made pursuant to this section shall be irrevocable.
- 2.10. Enhancement of Allocation. In no event will an allocation to a Shipper be used in such a manner that will enhance the allocation of another Shipper beyond the allocation that such Shipper would be entitled to under this policy. Carrier may require written assurances from a responsible officer of Shipper regarding its use of its allocated portion of Capacity stating that Shipper has not violated this policy. In the event any Shipper shall, by any device, scheme or arrangement whatsoever, attempt to transfer all or any part of its allocated portion of Capacity to any other Shipper in violation of this policy, or in the event any Shipper shall attempt to receive and use such portion of Capacity, the portion of Capacity allocated to such Shipper will be reduced in the next month that is subject to prorating after the date that the violation is discovered by a volume equal to such attempted transfer.

#### **Item No. 70 Facilities Required at Origin**

Product shall be accepted by Carrier only when Shipper or its designee has provided facilities for delivery of product into Carrier's system at pressures and flow rates required by Carrier. There shall be a meter station at each point of Origin which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered to Carrier. Each meter station at each point of Origin shall be provided and operated by the Shipper or its designee, except that the Carrier shall have access to each such meter station at all reasonable times and shall be responsible for the maintenance and calibration of the meter. Meter stations shall be built to the specifications of the Carrier.

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Pumps at points of Origin shall be built to the specification of the Carrier and shall be maintained and operated according to instructions of the Carrier. All other facilities associated with connection with the Carrier's pipeline, including storage tanks, surge tanks, pumps, associated piping, and valves at Origin shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld.

#### **Item No. 75 Facilities Required at Destination**

There shall be a meter station at each point of Destination which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered at Destination. The Carrier will provide and operate meter stations at outlets at points of Destination. For metering service at points of Destination there is a charge of [U] twenty cents (\$0.20) per Ton of Ammonia. A Shipper may, at its option, pay a nonrecurring charge of [U] twenty thousand dollars (\$20,000.00) for the use of a Destination point, and in that event, no charge for metering service will be made to that Shipper in respect of Ammonia delivered at that point.

All other facilities associated with the Carrier's pipeline, including storage tanks, surge tanks, associated piping, and valves at Destination shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld. Ammonia will be accepted for transportation only when the Carrier has ascertained from the Shipper that the Shipper or its designee has adequate facilities at Destination which are available for receipt of shipment as it arrives without delay.

#### **Item No. 80 Schedule**

Any Shipper may tender a designated quantity of Ammonia to be transported during a designated month between points on Carrier's system. Such tenders shall be delivered to the Carrier prior to the 20th day of the month preceding the designated month. Carrier shall notify Shipper of its ability to transport the tender quantity during the designated month on or before the first day of that designated month. If there is insufficient capacity available to ship all quantities specified by such tenders, the Carrier will prorate the capacity available on an equitable basis among the Shippers making such tenders. See Item No. 65 for the details of proration of pipeline Capacity.

Any quantity of Ammonia transported pursuant to this Item, during a designated month or other period, shall be delivered to the Carrier for transportation in approximately equal daily quantities.

Any Shipper wishing to utilize capacity other than as specified herein may make a tender designating the quantity of Ammonia sought to be shipped, the points of Origin and Destination, the desired period of shipment and other requirements of the movement. The Carrier will accommodate any such Shipper to the extent it is able to do so, having regard for the rights of other Shippers and the economic utilization of the Carrier's facilities.

#### **Item No. 90 Retendering of Product**

The following procedure will be observed for product delivered to the final Destination:

Upon written notice by the Shipper as specified in Item No. 80, product may be retendered from locations (if equipped and agreed upon by Shipper or its designee) named in various pipeline tariffs for a period not to exceed twelve (12) months after the initial receipt of that product at that Destination.

On product reshipped from a Destination to a revised final Destination pursuant to this Item No. 90: (1) there is a retendering charge of [U] fifty cents (\$0.50) per Ton for each Ton of Ammonia retendered by a Shipper to the Carrier pursuant to this item; (2) the rate to be collected for the reshipped product shall be the rate from Origin to revised final Destination, as in effect on the date of actual

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retendering, minus the rate paid for service from original point of shipment of that product to the initial Destination, plus meter charge (if applicable) at revised final Destination; (3) back-haul from original Destination to revised final Destination will be permitted without any additional charge (other than the \$0.50 covered in (1) of this paragraph).

Shipper may retender a quantity of Ammonia at the Destination point so long as there is sufficient transportation capacity, including pumping, metering, and other associated facilities, to accommodate such tendered Ammonia at the time it is sought to be tendered. Product which has originally been shipped past the pipeline J-1 pump station located near Hermann, Missouri, or original Origin, shall not be allowed a back-haul past that point.

Not more than one stop for retendered product shall be authorized.

#### **Item No. 95 Payment of Carrier Charges**

Carrier will invoice Shipper for transportation charges and Shipper shall pay all transportation and other lawful charges accruing on Product delivered to and accepted by Carrier for shipment. Carrier will invoice Shipper at the conclusion of each Calendar Week (see Item No. 60). If required, Shipper shall pay the same before delivery at Destination. All charges shall be paid by Shipper within ten (10) days of the date of invoice from Carrier. All payments by Shipper to Carrier shall be made by Automated Clearing House (ACH) debit initiated by Carrier on or before the due date of invoice. All charges that remain unpaid for more than thirty (30) days from the date of Carrier's invoice shall accrue an interest charge of the lesser of (i) eighteen (18%) percent per annum, or (ii) the maximum non-usurious interest rate which may then be charged under applicable law.

If charges remain unpaid for 45 days past Carrier's invoice then the Carrier shall have the right, after five (5) days' written notice to Shipper, to refuse receipts of any product into Carrier's pipeline for future delivery and Carrier reserves the right to off-set any such charges against any monies owed by Shippers product inventory in Carrier's custody.

#### **Item No. 105 Liability of Carrier**

The Carrier's custody of Ammonia begins when Ammonia passes the block valve downstream from the Shipper's pump station at a point of Origin and ends when Ammonia passes the block valve downstream from the Carrier's meter station at a point of Destination.

The Carrier will not be liable to a Shipper for any loss, vandalism, delay, discoloration, contamination, or deterioration that is caused by a breach of the warranty described in Item No. 25, negligence or other fault on the part of such Shipper, or by act of God or public enemy, quarantine, authority of law, governmental requirement or restriction, strike, lockout, labor difficulty, injunction, riot, fire, explosion, flood, accident, breakage of machinery or apparatus, inability to obtain fuel, power, raw materials or storage, or any other cause beyond the Carrier's control, whether or not similar to the foregoing causes, and any such loss, delay, or damage shall be equitably apportioned among Shippers.

#### **Item No. 110 Failure to Take Delivery**

In the event that a Shipper or its designee fails to take delivery as required, the Carrier shall have the right, upon notice to the Shipper to refuse to accept tenders at points of Origin and to divert, reassign, or make whatever arrangements for disposition of the undelivered Ammonia as the Carrier deems appropriate to clear the pipeline, including the right to sell such product at private sales for the best price obtainable. The Carrier may be a purchaser at any such sale. Out of the proceeds of any such sale, the Carrier may pay itself all transportation and other lawful charges and expenses of sale. The balance shall be held for whomsoever may be lawfully entitled thereto. If the proceeds from the sale are not sufficient to

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pay all transportation and other lawful charges and expenses of sale, the Shipper shall remain liable to the Carrier for the balance. The Carrier's refusal to accept tenders at points of Origin as a result of failure of Shipper or its designee to take delivery shall not in any way relieve Shipper of any commitment for the purchase of transportation and other services.

**Item No. 115 Claim, Time For Filing**

Claim for any delay, damage to, or loss of Ammonia must be made in writing to the Carrier within six (6) months after delivery from the Carrier's facilities of the shipment involved at the Destination to which such shipment was consigned, or in case of failure by Carrier to deliver, then within six (6) months after the date upon which delivery would have reasonably been completed by the Carrier. Such written claim as aforesaid shall be condition precedent to any suit.

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**SECTION 2**

**[U] ALL RATES ON THIS PAGE ARE UNCHANGED UNLESS OTHERWISE INDICATED**

**LOCAL RATES**  
**for the**  
**TRANSPORTATION OF ANHYDROUS AMMONIA**  
**(as defined in Item No. 1)**  
**BY PIPELINE**  
**All Rates in Dollars per Ton**  
 The rates contained in this section apply only via the lines of the  
 NuStar Pipeline Operating Partnership, L.P.

**Item No. 130**

TO	FROM					[N] Waggaman, LA <sup>1</sup>
	Donaldsonville, LA	Sterlington, LA	Taft, LA	Garner, IA		
El Dorado, AR	20.51	19.69	20.52	----		
Hermann, MO	29.95	29.04	30.17	30.17		
Louisiana, MO	36.65	34.86	36.67	36.78		[N] 36.79
Palmyra, MO	37.30	35.45	37.35	31.20		
Wood River, IL	33.94	32.87	34.15	33.88		
Cowden, IL	39.09	38.02	39.25	39.09		
Trilla, IL	39.75	38.94	40.06	40.06		
Fort Madison, IA	41.99	41.06	42.45	29.98		
Washington, IA	42.93	42.14	43.45	20.52		
Marshalltown, IA	43.73	42.80	44.02	26.64		
Iowa Falls, IA	44.08	43.15	44.43	24.78		
Garner, IA	44.73	43.66	45.11	----		
Spencer, IA	45.54	44.47	45.64	18.64		
Terre Haute, IN	40.93	39.57	41.12	40.93		
Crawfordsville, IN	42.14	41.07	42.42	42.42		
Frankfort, IN	42.80	41.99	43.12	42.80		
Walton, IN	43.63	42.71	43.79	43.79		
Huntington, IN	44.78	43.73	45.20	45.20		
Blair, NE	46.87	45.60	47.06	18.64		
Fremont, NE	47.00	45.67	47.19	18.64		
Aurora, NE	47.60	47.00	47.91	18.64		
Faustina, LA	[S] 18.64	[S] 18.64	[S] 18.64	----		
Donaldsonville, LA	[S] 18.64	[S] 18.64	[S] 18.64	----		
Taft, LA	[S] 18.64	[S] 18.64	[S] 18.64	----		
Sterlington, LA	[S] 18.64	----	[S] 18.64	----		
Plaquemine, LA	[S] 18.64	----	[S] 18.64	----		

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[N] Shipper on the Fortier Lateral shall be required to supply a pro rata share of Ammonia necessary for pipeline linefill on the Fortier Lateral to ensure efficient operation of the system. Ammonia furnished for linefill on the Fortier Lateral will only be returned to Shipper after such Shipper has ceased shipping, provided a written request for return, and after a sixty (60) calendar day time period to allow for administrative and operational requirements associated with the withdrawal of the Ammonia; provided, however, that, in the event Shipper's inventory balance exceeds its pro rata part of the volume of Ammonia necessary for linefill for two (2) consecutive months, then Carrier will return to Shipper the volumes of Ammonia in excess of Shipper's pro rata share within sixty (60) calendar days thereafter.

**Item No. 135 Proportional Credit Program**

The proportional rate credits named in Item No. 140 of this tariff shall apply only on transportation from Origins on Carriers pipeline delivered to Wood River, Illinois for further transportation to Destination(s) specified in Item No. 140. Shippers desiring to avail themselves of the rate credits specified in Item No. 140 are subject to the following rules:

- a) All shipments will remain subject to scheduling requirements under Item No. 80 of this tariff.
- b) Shipper shall pay the corresponding transportation rate from Item No. 130 for the initial transportation from all Origins on Carriers pipeline delivered to Wood River, Illinois.
- c) Shipper shall provide satisfactory documentation to Carrier detailing the subsequent transportation to those Destination(s) identified in Item No. 140. Upon receipt of satisfactory documentation, Carrier will issue a credit to Shipper at the end of each calendar month in accordance with Item No. 140.
- d) Satisfactory documentation shall be subject to an audit by Carrier, or at Shipper's choice, a third party selected by Carrier. If requested by Carrier, Shipper shall certify under oath to the accuracy and veracity of such documentation. If Shipper desires to have a third party perform the audit, Shipper will reimburse Carrier for all fees and expenses of said third party audit.
- e) Any Shipper that takes credit under Item No. 140 for deliveries that are not supported by the appropriate documentation or which documents are shown to be fraudulent, shall be required to return to Carrier all unsupported and/or fraudulent credits and will be prohibited from further program participation.
- f) Shipments under this program may be made, only when there is sufficient transportation capacity, including pumping, metering and other associated facilities to accommodate such shipments.
- g) Item No. 135 and Item No. 140 of this tariff, in their entirety is in effect until further notice of change or cancellation.

**Item No. 140 Proportional Credit Rates**

For the transportation of anhydrous ammonia, as defined in Item No. 1, by pipeline. All rates in dollars per ton. A Shipper transporting Product under the provisions of Item No. 135 will receive the following credit(s):

From	To	Proportional Destination	Rate (Credit)
Taft, LA	Wood River, IL	Various barge served destinations from Wood River, IL	[U] 2.00

**Item No. 145 Five Year Palmyra, MO Incentive Program**

Any Shipper who delivers Ammonia out of the system at Palmyra, MO, desiring to avail themselves of the Incentive Rates as set forth in Item 150 must satisfy all of the following provisions.

- a) Shipper must enter into a prior written commitment with Carrier.

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- b) The Commitment Term shall be sixty (60) months, but not longer than the effectiveness of this Item or any successive issues, reissues and amendments thereto.
- c) The Annual Commitment Volume shall be equal to the amounts specified in Item 150. Subject to Item 65, Carrier shall not be obligated during any one calendar month to deliver more than two hundred percent (200%) of the prorated monthly Minimum Annual Commitment Volume specified in Item 150.
- d) Shipper transporting Ammonia under the provisions of this Item will pay to Carrier the indicated incentive rate in Item 150. Additionally, Shipper will be responsible for all other applicable charges, rules and regulations contained within this tariff.
- e) Annually, on July 1<sup>st</sup>, Carrier may increase the rates set out in Item 150 by the FERC Annual Index. If the applicable FERC Annual Index is negative in any year, the rates will remain unchanged for that year.
- f) If pipeline service to Palmyra, MO is available less than ninety five (95%) in any one quarter of the Commitment Year and Carrier was not able to provide the volumes nominated by shipper in such quarter, Shipper may assert a claim of Carrier's failure to provide service in writing to Carrier within the first fifteen (15) days following the end of each quarter. A Shipper bears the burden of proof in showing that Carrier's failure to provide service did, in fact, result in the Shipper's failure to meet its commitment obligations at the end of each Commitment Year.

**Item No. 150 Five Year Palmyra, MO Incentive Rates (All rates in Dollars per Ton)**

A Shipper transporting Ammonia under the provisions of Item 145 will pay to Carrier the indicated incentive rate that corresponds to the Annual Five Year Commitment Tonnage.

Additionally, any Shipper that participates in Item 145 that transports Ammonia greater than 105,000 tons in a Commitment Year shall pay Item 130 Rates on the volumes that are greater than 105,000 tons in that Commitment Year.

Minimum Annual Commitment Ton Volume	Total Five Year Commitment Ton Volume	Rate in Dollars per Ton
60,000	350,000	[U] \$ 23.56

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**Item No. 160 West Leg Incentive Program (All rates in Dollars per Ton)**

Any Shipper transporting more than 60,000 tons of Ammonia in aggregate, per Calendar Year, from Donaldsonville, LA or Taft, LA to Spencer, IA, Blair, NE, Fremont, NE and Aurora, NE will pay the incentive rates listed below.

From	To	1 to 60,000 tons per Calendar Year	> 60,000 tons per Calendar Year
Donaldsonville, LA or Taft, LA	Spencer, IA	See applicable Item No. 130 Local Rate	[U] \$ 38.76
	Blair, NE		[U] \$40.08
	Fremont, NE		[U] \$40.20
	Aurora, NE		[U] \$40.81

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# **ATTACHMENT D**

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(Cancels L.P.S.C. No. 11)

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# NuStar Pipeline Operating Partnership, L.P.

## LOCAL TARIFFS

Applying on.

### ANHYDROUS AMMONIA

As Defined in Item No. 1

#### TRANSPORTED BY PIPELINE FROM AND TO POINTS NAMED HEREIN

The rates named in this Tariff are expressed in dollars per Ton and are subject to change as provided by law, also to regulations named herein.

Rates, Rules and Regulations applying on Interstate Traffic issued on authority of the Surface Transportation Board (S.T.B.).

The rates published herein will have no effect on the quality of the human environment.

S.T.B.	Issue Date: December 17, 2015	Effective Date: December 17, 2015
L.P.S.C.	Issue Date: May 29, 2015	Effective Date: July 1, 2015

**Issued By:**

Danny Oliver, Sr. Vice-President

**Compiled By:**

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**ABBREVIATIONS AND REFERENCE MARKS**

S.T.B.	Surface Transportation Board
L.P.S.C.	Louisiana Public Service Commission
No.	Number
[S]	Intrastate rate only
[U]	Unchanged rate
[C]	Cancel

POINTS FROM WHICH RATES APPLY	ITEM NUMBER	POINTS TO WHICH RATES APPLY ( unless otherwise indicated in Section 2 rate sheet)	ITEM NUMBER
Donaldsonville, LA	130	Aurora, NE	130, 160
Garner, IA	130	Blair, NE	130, 160
Taft, LA	130	Cowden, IL	130
Sterlington, LA	130	Crawfordsville, IN	130
		Donaldsonville, LA	130
		El Dorado, AR	130
		Faustina, LA	130
		Fort Madison, IA	130
		Frankfort, IN	130
		Fremont, NE	130, 160
		Garner, IA	130
		Hermann, MO	130
		Huntington, IN	130
		Iowa Falls, IA	130
		Louisiana, MO	130
		Marshalltown, IA	130
		Palmyra, MO	130, 150
		Plaquemine, LA	130
		Spencer, IA	130, 160
		Sterlington, LA	130
		Taft, LA	130
		Terre Haute, IN	130
		Trilla, IL	130
		Walton, IN	130
		Washington, IA	130
		Wood River, IL	130, 135, 140

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## SECTION 1

### RULES AND REGULATIONS

The NuStar Pipeline Operating Partnership, L.P hereinafter referred to as "Carrier", will receive anhydrous ammonia for transportation under the following conditions:

#### **Item No. 1 Anhydrous Ammonia Defined**

The term "Ammonia", as used herein, means liquid anhydrous ammonia that meets the specifications issued by the Carrier.

#### **Item No. 5 Ton Defined**

A "Ton" of Ammonia, as used herein, shall mean two thousand (2,000) pounds avoirdupois, and shall be equivalent to three hundred eighty-seven and twelve hundredths (387.12) U.S. gallons at sixty degrees Fahrenheit (60° F.) and equilibrium vapor pressure.

#### **Item No. 10 Carrier Defined**

Carrier shall mean NuStar Pipeline Operating Partnership, L.P.

#### **Item No. 15 Shipper Defined**

Shipper shall mean the party who contracts with Carrier for the transportation of Ammonia under the terms of this tariff.

#### **Item No. 16 Capacity Defined**

The quantity of Ammonia the Pipeline Segment at issue is capable of transporting under the current operating conditions.

#### **Item No. 17 Destination Defined**

A point named in the tariff at which point Carrier will deliver Ammonia to Shipper or its designee after transportation from an Origin.

#### **Item No. 18 Origin Defined**

A point named in the tariff at which point Carrier will accept Ammonia for transportation.

#### **Item No. 19 Pipeline Segment Defined**

Section of Carrier's common carrier facilities, the limits of which are defined by two geographically identifiable points, that, because of the way that section of Carrier's common carrier facilities is designed and operated, must be treated as a unit for purposes of determining Capacity.

#### **Item No. 25 Ammonia Acceptance Specifications**

Ammonia shall be accepted for transportation at Origin, and Ammonia shall be delivered by Carrier at Destination, only when such Ammonia meets all required specifications:

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Temperature:	Not less than 35 degrees Fahrenheit., nor more than 85 degrees Fahrenheit
Ammonia (NH3) Content:	99.5% minimum by weight
Water Content:	0.2% minimum by weight
Oil Content by Weight:	5 parts per million maximum
Inerts:	0.5cc per gram maximum

When requested, Shipper shall furnish Carrier with a document setting forth the specifications of each daily shipment of Ammonia delivered into Carrier's pipeline. Shipper shall indemnify and save Carrier harmless from any loss sustained by other Shippers or by Carrier by reason of contamination or damage to other Ammonia in Carrier's custody or by reason of damage to Carrier's pipeline or other facilities caused by failure of the materials accepted for transportation to be Ammonia as prescribed in this item. Carrier may sample and test any such shipment prior to acceptance or during receipt, and in the event of variance between Shipper's document and Carrier's test, the latter shall prevail.

**Item No. 35 Measurement**

Product shall be measured by Carrier on receipt and delivery. Observed volume at operating pressure and temperature shall be converted to weight by using the factors obtained in Carrier's Gauge Manual.

**Item No. 37 Loss Allowance**

Carrier will deduct three-tenths of one percent (0.3%) from all injections each day as a loss allowance. Adjustment will be made to Shipper on an annual basis within 180 days following December 31 of each year based on an over/short report prepared by Carrier. Losses will be adjusted to the actual amount but not to exceed 0.3% loss.

**Item No. 40 Acceptance Free From Liens and Charges**

The Carrier shall have the right to reject any Ammonia when tendered for shipment which may be involved in litigation or the title of which may be in dispute or which may be encumbered by lien or charge of any kind and it may require of the Shipper or its designee proof of his perfect and unencumbered title or a satisfactory indemnity bond.

**Item No. 45 Duty of Carrier**

Carrier shall, subject to Item No. 65, transport to Destination the quantity of Ammonia accepted for transportation.

**Item No. 50 Identity of Shipment**

Carrier will not maintain identity of Ammonia but will deliver from its common stream.

**Item No. 55 Day Defined**

A "day" as used herein shall mean the twenty-four (24) hours between 12:00 a.m. of the present day and 12:00 a.m. of the following day.

**Item No. 60 Calendar Week Defined**

The "calendar week" as used herein shall mean the one hundred sixty-eight (168) hours between 12:00 a.m. Monday and 12:00 a.m. the following Monday.

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## Item No. 65 Scheduling of Shipments

Ammonia shall be accepted for transportation at such time and in such quantities as scheduled by Carrier. Such schedules may be modified from time to time in the manner and to the extent reasonably desirable to facilitate and to reasonably accommodate Shipper's or its designee's need for transportation.

When a quantity of Ammonia is tendered by Shippers to Carrier which exceeds the Capacity of any Pipeline Segment from an Origin to a Destination, Ammonia tendered by each Shipper for transportation from that Origin to that Destination will be transported in such quantities and at such times to the limit of Carrier's Capacity in a manner determined by Carrier to be equitable to all Shippers. The details of this procedure are set out in the following paragraphs.

1. Definition of terms. Except where the context requires another meaning, the following terms have the following meanings:
  - 1.1. "New Shipper" means a Shipper that has not delivered Ammonia to any Destination on the Pipeline Segment to be prorated within the Base Period. A Shipper that becomes a New Shipper shall remain one for the following 12 consecutive months.
  - 1.2. "Regular Shipper" means a Shipper that is not a New Shipper.
  - 1.3. "Current Tender Basis" means that the portion of Capacity available pursuant to Section 2.2 contained in Item No. 65 to New Shippers will be allocated among all New Shippers in proportion to the volumes of Ammonia tendered by each New Shipper for that month in accordance with Item No. 80.
  - 1.4. "Base Period" is the 12-calendar-month period just preceding the Calculation Month. Individual months within the Base Period are designated by Nos. 1 through 12, with "Month 1" being the most recent Base Period month and "Month 12" being the oldest Base Period month.
  - 1.5. "Base Shipment Percentage" for each Regular Shipper is the total deliveries of Ammonia to all Destinations on the Pipeline Segment to be prorated by the Regular Shipper during the Base Period divided by the lesser of (a) 12 or (b) the number of Base Period month within which the Regular Shipper first delivered Ammonia to a Destination on the Pipeline Segment to be prorated.
  - 1.6. "Calculation Month" is the calendar month immediately preceding the month for which Capacity is being prorated.
2. Prorating of Capacity.
  - 2.1. When Capacity will be prorated. Carrier will allocate Capacity among all Shippers for any month for which the Carrier determines, at its sole discretion, that the aggregate volume of Ammonia that all Shippers tender to all Destinations in a Pipeline Segment exceeds Capacity. Proration will be applied separately to each Pipeline Segment where a need for prorating shall arise.
  - 2.2. Availability and Allocation of Capacity to New Shippers. Up to 10 percent of Capacity shall be made available to New Shippers and will be prorated among them on a Current Tender Basis.
  - 2.3. Availability of Capacity to Regular Shippers. After the allocation of the portion of Capacity to New Shippers that is required by Section 2.2 contained in Item 65, the remaining portion of Capacity for that month shall be available to Regular Shippers who have tendered volumes for that month.
  - 2.4. Allocation to each Regular Shipper. Such remaining portion of Capacity shall be allocated among Regular Shippers in proportion to their Base Shipment Percentages. In the event that the volume of Ammonia that would be allocated to a Shipper on the basis of its Base Shipment Percentage is greater than the volume it tenders, the difference between its volume calculated on the basis of its Base Shipment Percentage and its volume tendered will be reallocated among all other Regular Shippers in proportion to their Base Shipment Percentages.

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- 2.5. Any remaining prorated allocation of Capacity after Section 2.5 reallocation among all Regular Shippers in proportion to their Base Shipment Percentages shall be made available to New Shippers and will be prorated among them on a Current Tender Basis.
- 2.6. Basis of allocation: notification. When prorationing of Capacity is in effect Capacity shall be allocated among eligible Shippers on a monthly basis; and the Carrier shall use reasonable efforts to notify each Shipper entitled to an allocation of a portion of Capacity of the amount of its allocation no later than the 25th day of the month preceding the month for which the allocation is made.
- 2.7. Good Faith Tenders. Carrier will accept only good faith tenders from Shippers and Carrier shall use whatever reasonable means necessary to determine whether tenders are made in good faith. Good Faith means the non-contingent ability and willingness of Shipper to deliver to Carrier at the Origins specified and receive from Carrier at the Destinations specified in the tender all of the Tons tendered during the month for which the tender is made.
- 2.8. Failure to use allocated portion of Capacity. If a New Shipper making a good faith tender fails to deliver at the Origins and receive at the Destinations specified by it in its tender, Ammonia sufficient to fill the portion of Capacity allocated to it and such failure has not been caused by force majeure, as substantiated in a manner satisfactory to the Carrier, Carrier will reduce such Shipper's allocation for the next proration period after the end of the month during which such failure occurred for which such Shipper tenders as a New Shipper by the allocated portion of Capacity not utilized.
- 2.9. Transfer of Base Shipment Percentage or allocated portion of Capacity; use of affiliates. Neither a Shipper's Base Shipment Percentage nor volumes allocated to it during a period when prorationing is in effect shall be assigned, conveyed, loaned, transferred to, or used in any manner by, another Shipper. However, a Shipper's Base Shipment Percentage or its allocation may be transferred as an incident of the bona fide transfer if the Shipper's business or to a successor to the Shipper's business by the operation of law, such as an executor or trustee in bankruptcy. A Shipper may not use an affiliated or cooperating entity to increase its Base Shipment Percentage or its allocated portion of Capacity. All transfers made pursuant to this section shall be irrevocable.
- 2.10. Enhancement of Allocation. In no event will an allocation to a Shipper be used in such a manner that will enhance the allocation of another Shipper beyond the allocation that such Shipper would be entitled to under this policy. Carrier may require written assurances from a responsible officer of Shipper regarding its use of its allocated portion of Capacity stating that Shipper has not violated this policy. In the event any Shipper shall, by any device, scheme or arrangement whatsoever, attempt to transfer all or any part of its allocated portion of Capacity to any other Shipper in violation of this policy, or in the event any Shipper shall attempt to receive and use such portion of Capacity, the portion of Capacity allocated to such Shipper will be reduced in the next month that is subject to prorationing after the date that the violation is discovered by a volume equal to such attempted transfer.

#### **Item No. 70 Facilities Required at Origin**

Product shall be accepted by Carrier only when Shipper or its designee has provided facilities for delivery of product into Carrier's system at pressures and flow rates required by Carrier. There shall be a meter station at each point of Origin which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered to Carrier. Each meter station at each point of Origin shall be provided and operated by the Shipper or its designee, except that the Carrier shall have access to each such meter station at all reasonable times and shall be responsible for the maintenance and calibration of the meter. Meter stations shall be built to the specifications of the Carrier.

Pumps at points of Origin shall be built to the specification of the Carrier and shall be maintained and operated according to instructions of the Carrier. All other facilities associated with connection with the Carrier's pipeline, including storage tanks, surge tanks, pumps, associated piping, and valves at Origin

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shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld.

#### **Item No. 75 Facilities Required at Destination**

There shall be a meter station at each point of Destination which shall be equipped with facilities necessary to determine accurately the quantity of Ammonia delivered at Destination. The Carrier will provide and operate meter stations at outlets at points of Destination. For metering service at points of Destination there is a charge of [U] twenty cents (\$0.20) per Ton of Ammonia. A Shipper may, at its option, pay a nonrecurring charge of [U] twenty thousand dollars (\$20,000.00) for the use of a Destination point, and in that event, no charge for metering service will be made to that Shipper in respect of Ammonia delivered at that point.

All other facilities associated with the Carrier's pipeline, including storage tanks, surge tanks, associated piping, and valves at Destination shall be provided by the Shipper or its designee and subject to the inspection and approval of the Carrier, which approval shall not be unreasonably withheld. Ammonia will be accepted for transportation only when the Carrier has ascertained from the Shipper that the Shipper or its designee has adequate facilities at Destination which are available for receipt of shipment as it arrives without delay.

#### **Item No. 80 Schedule**

Any Shipper may tender a designated quantity of Ammonia to be transported during a designated month between points on Carrier's system. Such tenders shall be delivered to the Carrier prior to the 20th day of the month preceding the designated month. Carrier shall notify Shipper of its ability to transport the tender quantity during the designated month on or before the first day of that designated month. If there is insufficient capacity available to ship all quantities specified by such tenders, the Carrier will prorate the capacity available on an equitable basis among the Shippers making such tenders. See Item No. 65 for the details of proration of pipeline Capacity.

Any quantity of Ammonia transported pursuant to this Item, during a designated month or other period, shall be delivered to the Carrier for transportation in approximately equal daily quantities.

Any Shipper wishing to utilize capacity other than as specified herein may make a tender designating the quantity of Ammonia sought to be shipped, the points of Origin and Destination, the desired period of shipment and other requirements of the movement. The Carrier will accommodate any such Shipper to the extent it is able to do so, having regard for the rights of other Shippers and the economic utilization of the Carrier's facilities.

#### **Item No. 90 Retendering of Product**

The following procedure will be observed for product delivered to the final Destination:

Upon written notice by the Shipper as specified in Item No. 80, product may be retendered from locations (if equipped and agreed upon by Shipper or its designee) named in various pipeline tariffs for a period not to exceed twelve (12) months after the initial receipt of that product at that Destination.

On product reshipped from a Destination to a revised final Destination pursuant to this Item No. 90: (1) there is a retendering charge of [U] fifty cents (\$0.50) per Ton for each Ton of Ammonia retendered by a Shipper to the Carrier pursuant to this item; (2) the rate to be collected for the reshipped product shall be the rate from Origin to revised final Destination, as in effect on the date of actual retendering, minus the rate paid for service from original point of shipment of that product to the initial Destination, plus meter charge (if applicable) at revised final Destination; (3) back-haul from original

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Destination to revised final Destination will be permitted without any additional charge (other than the \$0.50 covered in (1) of this paragraph).

Shipper may retender a quantity of Ammonia at the Destination point so long as there is sufficient transportation capacity, including pumping, metering, and other associated facilities, to accommodate such tendered Ammonia at the time it is sought to be tendered. Product which has originally been shipped past the pipeline J-1 pump station located near Hermann, Missouri, or original Origin, shall not be allowed a back-haul past that point.

Not more than one stop for retendered product shall be authorized.

#### **Item No. 95 Payment of Carrier Charges**

Carrier will invoice Shipper for transportation charges and Shipper shall pay all transportation and other lawful charges accruing on Product delivered to and accepted by Carrier for shipment. Carrier will invoice Shipper at the conclusion of each Calendar Week (see Item No. 60). If required, Shipper shall pay the same before delivery at Destination. All charges shall be paid by Shipper within ten (10) days of the date of invoice from Carrier. All payments by Shipper to Carrier shall be made by Automated Clearing House (ACH) debit initiated by Carrier on or before the due date of invoice. All charges that remain unpaid for more than thirty (30) days from the date of Carrier's invoice shall accrue an interest charge of the lesser of (i) eighteen (18%) percent per annum, or (ii) the maximum non-usurious interest rate which may then be charged under applicable law.

If charges remain unpaid for 45 days past Carrier's invoice then the Carrier shall have the right, after five (5) days' written notice to Shipper, to refuse receipts of any product into Carrier's pipeline for future delivery and Carrier reserves the right to off-set any such charges against any monies owed by Shippers product inventory in Carrier's custody.

#### **Item No. 105 Liability of Carrier**

The Carrier's custody of Ammonia begins when Ammonia passes the block valve downstream from the Shipper's pump station at a point of Origin and ends when Ammonia passes the block valve downstream from the Carrier's meter station at a point of Destination.

The Carrier will not be liable to a Shipper for any loss, vandalism, delay, discoloration, contamination, or deterioration that is caused by a breach of the warranty described in Item No. 25, negligence or other fault on the part of such Shipper, or by act of God or public enemy, quarantine, authority of law, governmental requirement or restriction, strike, lockout, labor difficulty, injunction, riot, fire, explosion, flood, accident, breakage of machinery or apparatus, inability to obtain fuel, power, raw materials or storage, or any other cause beyond the Carrier's control, whether or not similar to the foregoing causes, and any such loss, delay, or damage shall be equitably apportioned among Shippers.

#### **Item No. 110 Failure to Take Delivery**

In the event that a Shipper or its designee fails to take delivery as required, the Carrier shall have the right, upon notice to the Shipper to refuse to accept tenders at points of Origin and to divert, reconsign, or make whatever arrangements for disposition of the undelivered Ammonia as the Carrier deems appropriate to clear the pipeline, including the right to sell such product at private sales for the best price obtainable. The Carrier may be a purchaser at any such sale. Out of the proceeds of any such sale, the Carrier may pay itself all transportation and other lawful charges and expenses of sale. The balance shall be held for whomsoever may be lawfully entitled thereto. If the proceeds from the sale are not sufficient to pay all transportation and other lawful charges and expenses of sale, the Shipper shall remain liable to the Carrier for the balance. The Carrier's refusal to accept tenders at points of Origin as a result of failure of

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Shipper or its designee to take delivery shall not in any way relieve Shipper of any commitment for the purchase of transportation and other services.

**Item No. 115 Claim, Time For Filing**

Claim for any delay, damage to, or loss of Ammonia must be made in writing to the Carrier within six (6) months after delivery from the Carrier's facilities of the shipment involved at the Destination to which such shipment was consigned, or in case of failure by Carrier to deliver, then within six (6) months after the date upon which delivery would have reasonably been completed by the Carrier. Such written claim as aforesaid shall be condition precedent to any suit.

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L.P.S.C. No. 12  
(Cancels L.P.S.C. No. 11)  
Effective: July 1, 2015

S.T.B. No. 18  
(Cancels S.T.B. No. 17)  
Effective: December 17, 2015

**SECTION 2**

**[U] ALL RATES ON THIS PAGE ARE UNCHANGED**

**LOCAL RATES**  
**for the**  
**TRANSPORTATION OF ANHYDROUS AMMONIA**  
**(as defined in Item No. 1)**  
**BY PIPELINE**  
**All Rates in Dollars per Ton**  
 The rates contained in this section apply only via the lines of the  
 NuStar Pipeline Operating Partnership, L.P.

**Item No. 130**

FROM TO	Donaldsonville, LA	Sterlington, LA	Taft, LA	Garner, IA
El Dorado, AR	20.51	19.69	20.52	----
Hermann, MO	29.95	29.04	30.17	30.17
Louisiana, MO	36.65	34.86	36.67	36.78
Palmyra, MO	37.30	35.45	37.35	31.20
Wood River, IL	33.94	32.87	34.15	33.88
Cowden, IL	39.09	38.02	39.25	39.09
Trilla, IL	39.75	38.94	40.06	40.06
Fort Madison, IA	41.99	41.06	42.45	29.98
Washington, IA	42.93	42.14	43.45	20.52
Marshalltown, IA	43.73	42.80	44.02	26.64
Iowa Falls, IA	44.08	43.15	44.43	24.78
Garner, IA	44.73	43.66	45.11	----
Spencer, IA	45.54	44.47	45.64	18.64
Terre Haute, IN	40.93	39.57	41.12	40.93
Crawfordsville, IN	42.14	41.07	42.42	42.42
Frankfort, IN	42.80	41.99	43.12	42.80
Walton, IN	43.63	42.71	43.79	43.79
Huntington, IN	44.78	43.73	45.20	45.20
Blair, NE	46.87	45.60	47.06	18.64
Fremont, NE	47.00	45.67	47.19	18.64
Aurora, NE	47.60	47.00	47.91	18.64
Faustina, LA	[S] 18.64	[S] 18.64	[S] 18.64	----
Donaldsonville, LA	[S] 18.64	[S] 18.64	[S] 18.64	----
Taft, LA	[S] 18.64	[S] 18.64	[S] 18.64	----
Sterlington, LA	[S] 18.64	----	[S] 18.64	----
Plaquemine, LA	[S] 18.64	----	[S] 18.64	----

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**Item No. 135 Proportional Credit Program**

The proportional rate credits named in Item No. 140 of this tariff shall apply only on transportation from Origins on Carriers pipeline delivered to Wood River, Illinois for further transportation to Destination(s) specified in Item No. 140. Shippers desiring to avail themselves of the rate credits specified in Item No. 140 are subject to the following rules:

- a) All shipments will remain subject to scheduling requirements under Item No. 80 of this tariff.
- b) Shipper shall pay the corresponding transportation rate from Item No. 130 for the initial transportation from all Origins on Carriers pipeline delivered to Wood River, Illinois.
- c) Shipper shall provide satisfactory documentation to Carrier detailing the subsequent transportation to those Destination(s) identified in Item No. 140. Upon receipt of satisfactory documentation, Carrier will issue a credit to Shipper at the end of each calendar month in accordance with Item No. 140.
- d) Satisfactory documentation shall be subject to an audit by Carrier, or at Shipper’s choice, a third party selected by Carrier. If requested by Carrier, Shipper shall certify under oath to the accuracy and veracity of such documentation. If Shipper desires to have a third party perform the audit, Shipper will reimburse Carrier for all fees and expenses of said third party audit.
- e) Any Shipper that takes credit under Item No. 140 for deliveries that are not supported by the appropriate documentation or which documents are shown to be fraudulent, shall be required to return to Carrier all unsupported and/or fraudulent credits and will be prohibited from further program participation.
- f) Shipments under this program may be made, only when there is sufficient transportation capacity, including pumping, metering and other associated facilities to accommodate such shipments.
- g) Item No. 135 and Item No. 140 of this tariff, in their entirety is in effect until further notice of change or cancellation.

**Item No. 140 Proportional Credit Rates**

For the transportation of anhydrous ammonia, as defined in Item No. 1, by pipeline. All rates in dollars per ton. A Shipper transporting Product under the provisions of Item No. 135 will receive the following credit(s):

From	To	Proportional Destination	Rate (Credit)
Taft, LA	Wood River, IL	Various barge served destinations from Wood River, IL	[U] 2.00

**Item No. 145 Five Year Palmyra, MO Incentive Program**

Any Shipper who [C] ~~originates from Donaldsonville, LA and~~ delivers Ammonia out of the system at Palmyra, MO, desiring to avail themselves of the Incentive Rates as set forth in Item 150 must satisfy all of the following provisions.

- a) Shipper must enter into a prior written commitment with Carrier.
- b) The Commitment Term shall be sixty (60) months, but not longer than the effectiveness of this Item or any successive issues, reissues and amendments thereto.
- c) The Annual Commitment Volume shall be equal to the amounts specified in Item 150. Subject to Item 65, Carrier shall not be obligated during any one calendar month to deliver more than two hundred percent (200%) of the prorated monthly Minimum Annual Commitment Volume specified in Item 150.

L.P.S.C. No. 12  
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Effective: December 17, 2015

- d) Shipper transporting Ammonia under the provisions of this Item will pay to Carrier the indicated incentive rate in Item 150. Additionally, Shipper will be responsible for all other applicable charges, rules and regulations contained within this tariff.
- e) Annually, on July 1<sup>st</sup>, Carrier may increase the rates set out in Item 150 by the FERC Annual Index. If the applicable FERC Annual Index is negative in any year, the rates will remain unchanged for that year.
- f) If pipeline service to Palmyra, MO is available less than ninety five (95%) in any one quarter of the Commitment Year and Carrier was not able to provide the volumes nominated by shipper in such quarter, Shipper may assert a claim of Carrier's failure to provide service in writing to Carrier within the first fifteen (15) days following the end of each quarter. A Shipper bears the burden of proof in showing that Carrier's failure to provide service did, in fact, result in the Shipper's failure to meet its commitment obligations at the end of each Commitment Year.

**Item No. 150 Five Year Palmyra, MO Incentive Rates (All rates in Dollars per Ton)**

A Shipper transporting Ammonia under the provisions of Item 145 will pay to Carrier the indicated incentive rate that corresponds to the Annual Five Year Commitment Tonnage.

Additionally, any Shipper that participates in Item 145 that transports Ammonia greater than 105,000 tons in a Commitment Year shall pay Item 130 Rates on the volumes that are greater than 105,000 tons in that Commitment Year.

Minimum Annual Commitment Ton Volume	Total Five Year Commitment Ton Volume	Rate in Dollars per Ton
60,000	350,000	[U] \$ 23.56

**Item No. 160 West Leg Incentive Program (All rates in Dollars per Ton)**

Any Shipper transporting more than 60,000 tons of Ammonia in aggregate, per Calendar Year, from Donaldsonville, LA or Taft, LA to Spencer, IA, Blair, NE, Fremont, NE and Aurora, NE will pay the incentive rates listed below.

From	To	1 to 60,000 tons per Calendar Year	> 60,000 tons per Calendar Year
Donaldsonville, LA or Taft, LA	Spencer, IA	See applicable Item No. 130 Local Rate	[U] \$ 38.76
	Blair, NE		[U] \$40.08
	Fremont, NE		[U] \$40.20
	Aurora, NE		[U] \$40.81

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