

KINDER MORGAN COCHIN ULC
LINE FILL POLICY
June 1, 2009

1. PURPOSE

Kinder Morgan Cochin ULC "KM Cochin" is updating Shipper line fill inventory responsibilities under the Line Fill Policy for the 2009-2010 Contract Year. While Shippers have always borne responsibility for the line fill, the purpose of this program is to eliminate Shipper concerns that, in the absence of a robust line fill program, a disproportionate share of their barrels could become "trapped" on the pipeline, especially as the end of the winter season approaches.

2. OPERATIONAL OVERVIEW

- a. As part of the line fill inventory program, the operation of the KM Cochin pipeline is divided into two segments. The West Leg segment extends from Fort Saskatchewan, Alberta to New Hampton, Iowa. The East Leg segment is from New Hampton, Iowa to Windsor, Ontario. The two segment operation has been in place since the Summer of 2008.
- b. The line fill program as applied to the West Leg of the system includes at least 1,100,000 barrels of comparable product and will provide assurance to Shippers that comparable product barrels pumped into the system at a Canadian receipt point will be expeditiously available with only minimal transit time to any of the West Leg terminal destinations. The Canadian portion of the line fill shall be approximately 500,000 barrels of comparable product in the KM Cochin pipeline which starts from the Fort Saskatchewan to the International Boundary near Alameda, Saskatchewan.
- c. As applied to the East Leg of the system, the line fill program greatly reduces transit times by allowing comparable product barrels pumped into the system at a Canadian receipt point to become expeditiously available at a point on the KM Cochin pipeline just downstream of the New Hampton terminal.
- d. For barrels nominated to East Leg terminals and delivery points, beyond New Hampton on the East Leg to the final destination will be sequenced with other barrels also nominated to East Leg destinations.
- e. Shippers desiring to temporarily store excess volumes of West Leg destined product on the KM Cochin pipeline system that exceed the combined storage capacity of the West Leg segment of the pipeline and the additional storage at the West Leg terminals may temporarily do so on the East Leg segment. West Leg destined product that is stored on the East Leg segment will be temporarily unavailable to the Shipper until it is displaced back to the West Leg by any Shipper via a corresponding KM Cochin receipt of new East Leg destined product on the West Line, or alternatively, a corresponding KM Cochin receipt of new excess West Leg destined product. KM Cochin will keep Shippers apprised of barrels that are temporarily unavailable.
- f. If Shipper desires to change the destination of their tendered product, the destination change must be submitted to Carrier by the 15th of the current month tendered product is scheduled to be pumped on KM Cochin's pipeline.
- g. Shipper may make any changes to their tendered product within a single destination at any time.
- h. Shippers shall be assessed a tariff rate for all movements on the KM Cochin pipeline. A copy of the tariffs are located on the Carrier's website at www.kindermorgan.com.

3. SHIPPER CHOICE

- a. The KM Cochin line fill program allows individual Shipper choice to select from options that are best tailored to his needs. Annually, each Shipper will choose from at least two options:
 - i. Shipper to provide a pro rata share of line fill inventory; or
 - ii. Shipper shall increase its cumulative tariffed revenue and liftings at KM Cochin terminals and delivery points during the immediate Contract Year by at least fifty percent (50%) over the calendar year that completed in the December prior to April 1 of the immediate Contract Year. KM Cochin will furnish at KM's cost the line fill barrels for those Shippers that select the second option.
 - iii. Shippers that make deliveries to exclusively East Leg destinations may elect to have their barrels sequenced down the pipeline on a strictly transit time basis.
- b. Option 3 is not available to Shippers who have deliveries to destinations on the West Leg segment.

4. CALCULATION OF A SHIPPER'S PRO RATA LINE FILL INVENTORY WEST LEG RESPONSIBILITY

- a. As a condition of carriage, during the first quarter of every year, KM Cochin will provide each Shipper with an individualized summary of his total comparable product volumes that were either lifted at KM Cochin terminals or delivered to destination points on the KM Cochin pipeline by that Shipper during the past calendar year. This volume will also be expressed as a percent of the liftings and deliveries of all Shippers during the past calendar year that will continue to do business on the KM Cochin pipeline.
- b. KM Cochin will provide a calculation rounded up to the nearest thousand barrels indicating that Shipper's pro rata responsibility for the 500,000 barrel West Leg cumulative line fill inventory requirement for the coming Contract year.
- c. A Contract Year extends from April of the current year through March of the next year while the calendar year of the prior year extends from January through December.
- d. An adjustment will be made for a Shipper that acted both as a Shipper of Record as well as a consignee of a second Shipper during the prior calendar year.
- e. This adjustment will only be applied to this Shipper in the event that either: 1) the second Shipper does not provide timely notice to KM Cochin that the second Shipper will continue to be a Shipper on the KM Cochin pipeline during the coming Contract year; or 2) that the second Shipper does not timely select either the "Pro Rata" share of line fill inventory option or the "take or pay 50% increase in the combined amount of destination deliveries and terminal liftings" option. If either event occurs, for purposes of the first Shipper's pro rata share of line fill inventory requirement, those corresponding volumes that were previously transported as a consignee during the prior year will be added to the first Shipper's prior total as if all his barrels were lifted as the original Shipper of Record.
- f. If (1) an entity or one of its affiliates that lifted barrels from the KM Cochin terminals as a consignee of a primary Shipper of Record during the past calendar year and (2) the prior consignee, its successor or one of its affiliates now elects to become a new primary Shipper of Record for the coming Contract year, then that new Shipper, its predecessor, and its affiliates' volumes lifted during the previous calendar year as a consignee will be deemed to serve as a surrogate total amount of volume lifted by the new Shipper of Record during the past calendar year. All affiliates of a Shipper must select the same option as the Shipper.

- g. Liftings and deliveries will be extrapolated to determine pro rata line fill inventory share for any Shipper that began initial operations on KM Cochin's pipeline less than fourteen months before the current Contract Year (April 1, 2009) had begun.
- h. Once an option is selected for a Contract Year, it cannot be changed for that Contract Year without the consent of KM Cochin. Consent will not be provided if the change would unreasonably disadvantage any other Shipper or party to a KM Cochin pipeline agreement.
- i. In successive Contract Years, unless a Shipper provides KM Cochin with written notice requesting a different option choice during the annual election period, that Shipper's choice for the prior Contract year will be deemed to be that Shipper's choice in the coming Contract Year.
- j. Any new entity with no previous history of any related affiliate movements on the KM Cochin pipeline that requests to become a Shipper of Record will be required to furnish a pro rata share of line fill inventory based on their proposed throughput deliveries and loadings at terminals for the Contract Year. New Shippers will not be permitted to ship at any greater throughput level during the initial year without first increasing their pro rata share of line fill inventory. A New Shipper is defined as any entity than: 1) never previously shipped on KM Cochin pipeline; or 2) who has not been a Shipper of Record either over the rack at a KM Cochin Terminal or at any delivery point on KM Cochin pipeline during the 14 months prior to the beginning of the current Contract Year.

5. OPTION 1: SHIPPER PROVIDES A PRO RATA SHARE OF LINE FILL INVENTORY COMPLEMENT

- a. Shippers that select this option may begin providing their pro rata line fill inventory share into the KM Cochin pipeline on April 1 of the Contract Year and must complete the delivery of their pro rata share of line inventory no later than the end of August of the Contract Year.
- b. Any volume remaining in the KM Cochin system at the end of the prior Contract Year (March 31st) up to an amount equal to the Shipper's pro rata line fill inventory obligation for the coming Contract Year will be offset against that Shipper's line fill inventory obligation for the coming Contract Year.
- c. If Shipper elects to remain an Option 1 Shipper and his pro rata responsibility for the coming Contract Year (1) requires more barrels than the prior Contract Year, Shipper will have until August 1, 2009 to inject any balance owed to their line fill commitment and (2) requires less volume, Shipper would be given access to the difference in their Line Fill Commitment on April 1, 2009.
- d. Except for qualifying overdrafts described below, once the complete line fill inventory complement for that Shipper has been established in the line it must remain in the KM Cochin pipeline until the end of the Contract Year.
- e. Except for qualifying overdrafts described below, in the event that the inventory of a Shipper that selects Option 1 falls below that Shipper's pro rata share of line inventory complement at any point after the end of August in the Contract Year, that Shipper will be locked out of his remaining line inventory position on the pipeline until either: 1) the balance of the Contract Year has ended; or 2) until the Shipper restores the pro rata line inventory complement to the designated amount.
- f. Any requesting Shipper that selects Option 1 (by committing to provide the KM Cochin calculated pro rata share of line fill inventory) will be permitted to have an overdraw of up to 50% of their line fill inventory each calendar month by tendering their anticipated movements for the upcoming month as firm "**Binding**" nominations. **Binding** nominations are volumes guaranteed by the Shipper to be delivered into the KM Cochin Pipeline during the corresponding calendar month (as contrasted with traditional cancellable "Non-binding" nominations).

- g. One purpose of the overdraw is to allow Shippers to minimize the amount of working capital that would otherwise be required to be unnecessarily tied up in additional line fill inventory when Shippers have little control over the logistics of how KM Cochin may be required to sequence the different individual customer nominations into the pipeline during a calendar month.
- h. Shippers that do not desire to tender their nominations as **Binding** will not be allowed “overdraws” against their pro rata line fill positions. Shippers that do not desire “overdraws” may continue to tender traditional non-binding cancellable nominations. The size of an overdraw will not be allowed to exceed the volume of the same month’s **Binding** nomination.
- i. Once nominated to KM Cochin, Shippers will not be allowed to cancel a **Binding** nomination.
- j. Shippers that desire overdraws will be required to maintain creditworthy status. In the event the Shipper does not deliver the volumes that were guaranteed by the **Binding** nomination prior to the end of the corresponding month, that Shipper will be required to sign a separate agreement authorizing KM Cochin to make a purchase of make-up line fill inventory barrels for the Shipper’s account at current market prices within five business days of the end of the corresponding month. Such purchase will be backed by the Shipper’s remaining line inventory and will cover the past and any future failure by the Shipper to deliver the firm **Binding** nominations to the pipeline within the Contract Year. As a separate additional remedy, the Shipper will be liable for the full tariff on the non-delivered barrels and a 10% non-compliance penalty on the barrels not delivered. Finally, the non-complying Shipper will also be locked out of the balance of his remaining inventory on the system until the corresponding pro rata share of line fill inventory has been restored.
- k. No Shipper will be allowed an overdraw in the absence of a corresponding **Binding** nomination. Any Shipper who exercises an overdraw will be conclusively deemed to have submitted a **Binding** nomination that was accepted by KM Cochin subject to all of the remedies described above in the event that the Shipper does not restore his line fill inventory complement to the full amount prior to the end of the corresponding calendar month.
- l. Any Shipper who exercises an overdraw will be responsible to have the Supplier(s) of his corresponding **Binding** nominated barrels complete delivery of these corresponding **Binding** nominated barrels into the KM Cochin system by the end of the month at a flow rate that meets KM Cochin’s schedule. If these **Binding** nominated barrels are not delivered into the KM Cochin system by the end of the month, Shipper will be subject to all of the remedies described in the paragraphs above.
- m. Even in the absence of an overdraw, in the event a Shipper cancels a **Binding** nomination that Shipper will be liable for the full applicable pipeline tariff(s) and applicable terminal and transfer fees as if the barrels had been delivered plus an additional premium fee of ten percent (10%) of the applicable tariff(s) and fee(s).

6. OPTION 2: TAKE OR PAY COMMITMENT TO INCREASE TOTAL REVENUE FROM LIFTINGS AND DELIVERIES BY 50%

- a. Shippers that select this option must sign a Throughput and Deficiency Agreement (“T&D Agreement”) to transport as the primary Shipper of Record on the KM Cochin pipeline and take delivery or lift from KM Cochin pipeline terminals sufficient product to equal 150% of the non-FERC indexed KM Cochin calculation of the revenue generated from that Shipper’s prior Calendar year liftings and deliveries during the Contract year as the primary Shipper of Record.
- b. KM Cochin will furnish the line fill inventory for these Shippers.

- c. A Shipper that originally elects Option 2 but subsequently fails to sign by June 30 of the Contract Year the corresponding Throughput and Deficient Agreement for the Contract Year will be conclusively deemed to have changed their election to Option 1. Such Shipper must have their pro rata share of the line fill barrels delivered to KM Cochin no later than the end of August of the Contract Year.
- d. In the event that a Shipper or one of its affiliates lifted barrels during the past calendar year as both a primary Shipper of Record and also lifted barrels at a KM Cochin terminal as a consignee of another Shipper of Record, KM Cochin will provide that Shipper with a summary of the amount of barrels lifted as a consignee as well as a primary Shipper of Record. In addition to the 150% rule, the Shipper must also sign a T&D Agreement that the total revenues and volume of barrels that will be lifted or delivered to a KM Cochin destination during the Contract year will not be less than the cumulative total of revenues and of barrels lifted as either a primary Shipper of Record or as a consignee of other Shippers during the previous year.
- e. In the event an entity or one of its affiliates or its predecessor that lifted barrels during the prior calendar year as a consignee of a second Shipper of Record, KM Cochin will provide that new entity with a summary of the amount of barrels that entity lifted as a consignee. Any such entity must sign a T&D Agreement to transport as the primary Shipper of Record, take delivery at, and lift from a KM Cochin pipeline terminal 150% of the amount of barrels lifted as a consignee during the prior calendar year.
- f. Any shortfall in the T&D Agreement will be invoiced during the April following the completion of the Contract year. The per barrel assessment for the shortfall will be equal to the average combined tariff for transportation, terminal lifting as well as any applicable transfer fees and line losses that the Shipper was liable for during the completed Contract year.
- g. Within the separate T&D Agreement required under Option 2, Shippers may determine upon selection the number of years, but not more than three, the Shipper will maintain the 150% level of prior (2008 as of April 1, 2009) Calendar Year volumes and revenues in exchange for KM Cochin providing the pro rata share of line inventory for the same number of years.
- h. A Shipper that had previously selected Option 2 for a prior year but did not meet the 150% level for an immediately prior year will not be qualified to select Option 2 for the next successive Contract Year.
- i. Option 2 selections will not be allowed in the event that the additional volumes required under the 150% level would be anticipated to put the pipeline into proration for more than four months during the Contract Year.
- j. Option 2 is not available to any Shipper who had selected Option 2 for the prior Contract Year but had failed to increase its cumulative tariffed revenue and liftings at KM Cochin terminals and delivery points by at least fifth percent (50%) over the prior calendar year.
- k. Option 2 is not available to any Shipper who had selected Option 2 for the prior Contract Year but failed to timely execute a corresponding T&D Agreement for the prior Contract Year.

7. OPTION 3: TRADITIONAL TRANSIT TIME SEQUENCING

- a. This option is available only to Shippers that deliver to exclusively East Leg destinations, that is, beyond New Hampton, Iowa.
- b. No pro rata share line fill inventory responsibility complement will be required of eligible Shippers that select this option.
- c. Shipper barrels will be sequenced through the West Leg as well as the appropriate segments of the East Leg on a transit time basis to their destination.
- d. Shippers selecting this option will not be allowed to nominate or deliver to West Leg destinations.

8. SHIPPER COLLUSION

- a. In order to assure the ongoing integrity of a system that allows Shipper options, KM Cochin will not allow any potential collusion among Shippers, affiliates or consignees, whether or not intentional, to circumvent compliance with this line fill inventory program. Potential collusions may include but are not limited to the following examples:

Example 1:

Shipper A (primary Shipper of Record) chooses Option 1. Based on the volumes delivered for the prior contract year, the KM Cochin calculated pro rata West Leg line fill inventory complement for Shipper A is 5,000 barrels. Shipper A did not ship barrels for any Consignee during the prior year.

Shipper B (primary Shipper of Record) line fill obligation is 15,000 barrels based on volumes delivered for the prior contract year. Shipper B was not a Consignee of any other primary Shipper of Record at any terminal on the KM Cochin pipeline during the prior contract year. In an effort to avoid the 15,000 barrel line obligation under Option 1, Shipper B informs KM Cochin that Shipper B will no longer be a primary Shipper of Record and therefore will not be participating in the line fill program. Shipper B contracts with Shipper A to transport Shipper B's barrels via an affiliate of Shipper B as a Consignee of Shipper A. This arrangement would not be permissible unless Shipper A's line fill inventory obligation is proactively increased to 20,000 barrels (5,000 barrels plus 15,000 barrels).

Example 2:

Shipper C (primary Shipper of Record) chooses Option 1. Based on the volumes delivered for the prior contract year, the KM Cochin calculated pro rata West Leg line fill inventory complement for Shipper C is 5,000 barrels.

Shipper D (primary Shipper of Record) line fill obligation is 15,000 barrels based on volumes delivered for the prior contract year. Shipper C acquires the operations of Shipper D. While Shipper D will no longer be a Shipper of Record, it would not be permissible for Shipper C's line fill responsibility to remain at 5,000 barrels for the Contract Year, rather it would increase to 20,000 barrels (5,000 barrels plus 15,000 barrels).

Example 3:

Shipper E (primary Shipper of Record) line fill obligation is 5,000 barrels based on volumes delivered for the prior contract year. Shipper E was also a Consignee of Shipper F during the prior Contract Year. Shipper E as a Consignee of Shipper F, delivered the same amount of barrels as the primary Shipper of Record for during the prior contract year.

Shipper E chooses Option 2 (50% revenue and throughput increase). At the completion of the current Contract Year, Shipper E increased his throughput and revenues as a primary Shipper of Record by 75% but shipped no barrels as a Consignee. Since it is impermissible for an Option 2 Shipper to have less total throughput and revenue in the current Contract Year than the combined volume of Shipper E as a primary Shipper of Record and Consignee in the prior Contract Year, Shipper E would be liable for an additional payment at the end of the Contract Year under the T&D Agreement.