

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Aspire Energy Express, LLC)	Case No. 19-2021-PL-ACE
for Authority to Operate as an)	Case No. 19-2022-PL-ATA
Ohio Pipeline Company)	

APPLICATION FOR AUTHORITY TO OPERATE
AS AN OHIO PIPELINE COMPANY

Aspire Energy Express, LLC, ("Aspire"), respectfully submits this Application to the Public Utilities Commission of Ohio (the "Commission") pursuant to R.C. 4905.02, 4905.03(F) and 4905.63 for authority to operate as an intrastate pipeline company and approval of its proposed tariff. In support of this Application, Aspire states as follows:

1. Aspire is a Delaware limited liability company registered to do business in the State of Ohio. *See* State of Ohio Certificate, Document No. 201735201370, Registration of Foreign for Profit LLC attached as Exhibit A. Aspire's office is located at 300 Tracy Bridge Road, Orrville, Ohio 44667.

2. Aspire is a wholly-owned subsidiary of Chesapeake Utilities Corporation, which is a publicly traded corporation on the New York Stock Exchange with ticker symbol CPK.

3. Chesapeake Utilities Corporation is a diversified energy company with subsidiaries including Chesapeake Utilities (a natural gas local distribution company), Eastern Shore Natural Gas (a natural gas transportation company) and Florida Public Utilities (a natural gas and electric public utility serving customers in Florida).

4. Aspire plans to provide natural gas transportation service in Ohio including to the Guernsey Power Station that is currently under construction. The Ohio Power Siting Board

issued a certificate to Guernsey Power Station LLC for the construction, operation, and maintenance of that facility in 2017 in Case No. 16-2443-EL-BGN, which certificate was amended in 2018 in Case No. 18-0090-EL-BGA. Aspire will own and construct the intrastate pipeline facilities that will interconnect with (i) the Rockies Express Pipeline and potentially (ii) other points of receipt.

5. The pipeline facilities will have a maximum allowable operating pressure (“MAOP”) of approximately 1,480 pounds per square inch and be approximately 16 to 20 inches in diameter. The pipeline facilities that will be initially constructed are in close proximity to the Guernsey Power Station. An Ohio Power Siting Board certificate is not anticipated to be required for the initial pipeline system as it will be under 500 feet in length.

6. Aspire has entered into the requisite agreements with the Guernsey Power Station owner to construct the pipeline and provide natural gas transportation service pending approval of Aspire’s Application. Aspire is also in discussions with other potential customers to provide natural gas transportation to projects elsewhere in Ohio. Those projects would involve other pipelines that would become part of the Aspire system.

7. Accordingly, Aspire seeks Commission approval to become a pipeline company that will operate, maintain, and transport natural gas through the new pipeline to the Guernsey Power Station and to potentially other projects and customers by means of such pipeline and/or other pipelines.

8. Aspire has the requisite technical and managerial experience to operate natural gas pipelines. Aspire will utilize a team of professionals experienced in the natural gas transportation industry. *See* Technical and Managerial Experience attached as Exhibit B. Aspire will also hire qualified subcontractors to conduct specialized pipeline operation and maintenance

that may include compliance programs, operator qualifications, public awareness, damage prevention, specialized testing and emergency response.

9. Aspire has the requisite financial capability to own and operate the proposed pipeline(s). The financial information of Aspire's parent company, Chesapeake Utilities Corporation, is attached as Exhibit C. Aspire notes that its parent corporation, Chesapeake Utilities Corporation, is a publicly traded corporation on the New York Stock Exchange with affiliates that provide natural gas transportation service and local distribution service.

10. Aspire is proposing a tariff, which is attached as Exhibit D and incorporated into this Application, and seeks approval of such tariff through this Application. Aspire will provide all service under the tariff through transportation service agreements, and Aspire will file applications with the Commission for approval of such reasonable arrangements, including the agreement with Guernsey Power Station LLC, under R.C. 4905.31.

11. In support of this Application, Aspire is providing the Commission with the following exhibits as referenced above:

- Exhibit A: State of Ohio Certificate, Document No. 201735201370, Registration of Foreign for Profit LLC, Aspire Energy Express, LLC
- Exhibit B: Technical and Managerial Experience
- Exhibit C: Financial information of Aspire's parent company
- Exhibit D: Proposed Tariff

WHEREFORE, Aspire Energy Express, LLC, respectfully requests that the Commission approve:

- a. This Application;
- b. The Aspire Energy Express tariff;

c. A TRF number for Aspire Energy Express, LLC, and to add its name to the roll of public utility/pipeline companies; and

d. Any other relief the Commission deems appropriate.

Respectfully submitted,

By: /s/ Michael J. Settineri
Michael J. Settineri (0073369), Counsel of Record
MacDonald W. Taylor (0086959)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008
Telephone: (614) 464-5462
Fax: (614) 791-5146
mjsettineri@vorys.com
mwtaylor@vorys.com

Counsel for Aspire Energy Express, LLC

Exhibit A

(consists of the following 3 pages)



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
12/18/2017	201735201370	REGISTRATION OF FOREIGN FOR PROFIT LLC (LFP)	99.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

BAKER & HOSTETLER LLP
ATTN SONIA K. LOWE
200 CIVIC CTR DR STE 1200
COLUMBUS, OH 43215

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jon Husted

4110519

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

ASPIRE ENERGY EXPRESS, LLC

and, that said business records show the filing and recording of:

Document(s)

REGISTRATION OF FOREIGN FOR PROFIT LLC

Effective Date: 12/15/2017

Document No(s):

201735201370



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
18th day of December, A.D. 2017.

Ohio Secretary of State

Form 533B Prescribed by:

JON HUSTED
Ohio Secretary of State



Toll Free: (877) SOS-FILE (877-767-3453)
Central Ohio: (614) 466-3910
www.OhioSecretaryofState.gov
busserv@OhioSecretaryofState.gov
File online or for more information: www.OHBusinessCentral.com

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 670
Columbus, OH 43216

Expedite Filing (Two business day processing time.
Requires an additional \$100.00)
P.O. Box 1390
Columbus, OH 43216

For screen readers, follow instructions located at this path.

Registration of a Foreign Limited Liability Company

Filing Fee: \$99

Form Must Be Typed

CHECK ONLY ONE (1) BOX

(1) Registration of a Foreign For-Profit Limited

☒ Liability Company
(106-LFA)
ORC 1705

Jurisdiction of Formation

Delaware

Date of Formation

12/15/2017

(2) Registration of a Foreign Nonprofit

☐ Limited Liability Company
(106-LFA)
ORC 1705

Jurisdiction of Formation

Date of Formation

Name of Limited Liability Company in its jurisdiction of formation

Aspire Energy Express, LLC

Name under which the foreign limited liability company desires to transact business in Ohio (if different from its name in its jurisdiction of formation) is:

Name must include one of the following words or abbreviations: "limited liability company," "limited," "LLC," "L.L.C.," "Ltd.," or "Ltd"

The address to which interested persons may direct requests for copies of the limited liability company's operating agreement, bylaws, or other charter documents of the company is:

Stacie Roberts

Name

909 Silver Lake Boulevard

Mailing Address

Dover

City

DE

State

19904

ZIP Code

The limited liability company hereby appoints the following as its agent upon whom process against the limited liability company may be served in the state of Ohio. The name and complete address of the agent is

Corporation Service Company

Name of Agent

50 West Broad Street, Suite 1330

Mailing Address

Columbus

City

Ohio

State

43215

ZIP Code

The limited liability company irrevocably consents to service of process on the agent listed above as long as the authority of the agent continues, and to service of process upon the Ohio Secretary of State if:

- a. an agent is not appointed, or
- b. an agent is appointed but the authority of that agent has been revoked, or
- c. the agent cannot be found or served after the exercise of reasonable diligence.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Must be signed by an authorized representative.

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.

Sonia K. Lowe

Signature

By (if applicable)

Sonia K. Lowe

Print Name

Signature

By (if applicable)

Print Name

Signature

By (if applicable)

Print Name

Exhibit B

ASPIRE ENERGY EXPRESS, LLC

TECHNICAL AND MANAGERIAL EXPERIENCE

Douglas M. Ward, Vice President, Aspire Energy Express, LLC, a subsidiary of Chesapeake Utilities Corporation and Vice President, Aspire Energy of Ohio, LLC, a subsidiary of Chesapeake Utilities Corporation

Mr. Ward joined Chesapeake Utilities Corporation (Chesapeake) in July 2015 as Vice President and Business Unit Leader of Aspire Energy of Ohio, LLC, a wholly owned subsidiary of Chesapeake Utilities Corporation providing natural gas midstream services and operating approximately 2,500 miles of natural gas midstream pipelines in Ohio. In his current position, he leads the Aspire Energy of Ohio, LLC business unit and has the responsibility for all of its day-to-day activities, setting the strategic direction, execution of its future growth initiatives and financial performance.

Mr. Ward has over 31 years of experience in the gas industry. His experience in the gas industry includes leading activities involving business unit leadership, strategic planning, organizational restructuring, contract negotiations, project management, engineering, operations and maintenance, construction, land and right-of-way services, budgeting, capital expenditures, business development, and project development. He has worked on a variety of gas projects related to pipeline and compression facilities including distribution, transmission, gathering, midstream, and storage related natural gas facilities. He has experience leading natural gas engineering and operational standards development efforts. In addition, Mr. Ward has prior experience in franchise and gas rate case related work with local governing bodies. His experience includes working with bargaining units, including arbitrations, contract negotiations and other labor relations issues.

Prior to Chesapeake, Mr. Ward was the Vice President – Project Development & Land for EnSiteUSA, an engineering design consulting firm serving the natural gas pipeline industry. While at EnSiteUSA for over a six (6) year period, he was involved in business development, corporate strategy, planning, proposals, cost estimating, pricing, contract negotiations, client relations, acquisition evaluations and other financial and business related aspects for the company. He also frequently acted in a project director role leading efforts for large scale projects working closely with the client while at EnSiteUSA. The following are two examples of project experiences at EnSiteUSA. Served as the project director associated with a proposed 60-mile, 42-inch natural gas pipeline in Michigan. The pipeline project was subject to the jurisdiction of the FERC permitting process. Facilities include interconnect facilities, pig launchers and receivers, main line valve sets, a 15,000 hp Solar Mars turbine addition, and other associated facilities. During the course of the project work, the scope of the proposed facilities was modified to limit the installation to a proposed ½-mile, 30-inch gas pipeline and meter interconnect modifications. Served as the project director associated with an 18-mile, 12 and 16-

inch natural gas pipeline in New York. The pipeline project was subject to the jurisdiction of the FERC permitting process.

Prior to EnSiteUSA, Mr. Ward held various natural gas leadership positions with CenterPoint Energy, a large electric and natural gas energy company. The following are a listing of positions and roles Mr. Ward held while at CenterPoint Energy during a period that spanned over 21 years. Mr. Ward was previously the Region Manager (director level position) for the Texas Coast Region responsible for over 150 employees serving 300,000 natural gas customers. Manager of Contractor & Engineering Design – Metro Houston Gas, responsible engineering design group efforts of 40 engineers, designers, and support staff as well as contractor services management for 60 contract construction crews installing gas pipeline and gas facilities for the Metro Houston Gas division (serving over 1 million natural gas customers in the Houston, Texas area). Supervising Engineer – Gas Engineering & Operations Standards Group, responsible as the head of gas standards group for all of gas distribution business units of CenterPoint Energy, which include Arkla, Entex, and Minnegasco, serving 3 million customers in six states. Responsible for all engineering and operations standards and material specifications, monitoring federal and state regulatory codes, quality assurance plans, reviewing industry best practices and new products available. Other positions held by Mr. Ward while at CenterPoint Energy include Manager (local gas operations in Louisiana and Mississippi divisions), and Engineer (Louisiana division).

Mr. Ward is a member of several gas industry associations including the American Gas Association, Ohio Gas Association, and the Ohio Oil & Gas Association. He has served in the past as a member of the Board of Trustees for the Ohio Oil & Gas Association.

Mr. Ward earned a Bachelor of Science degree in Industrial Engineering from Louisiana Tech University and a Master of Business Administration degree from University of Houston - Victoria.

Jeffrey R. Tietbohl, Vice President, Eastern Shore Natural Gas, a subsidiary of Chesapeake Utilities Corporation

Mr. Tietbohl's business experience in the natural gas industry spans nearly thirty (30) years with Chesapeake Utilities Corporation (Chesapeake), including being appointed as Vice President and Business Unit Leader of Chesapeake's natural gas transmission pipeline subsidiary, Eastern Shore Natural Gas Company, in 2014. Mr. Tietbohl directly oversees over \$250 million of natural gas pipeline assets along with annual revenues in excess of \$65 million today. He recently led the single largest natural gas pipeline expansion project in the Company's history. This project resulted in a twenty-five percent (25%) increase in the operating capacity of the pipeline, including capital expenditures in excess of \$100 million with annual revenues over \$15 million.

Mr. Tietbohl was previously appointed Vice President of Chesapeake Utilities Corporation's natural gas distribution operations in Delaware and Maryland in June 2010. In addition to managing both the Delaware and Maryland natural gas distribution operations, he developed and

executed strategic plans as well as prepared and managed the unit's financial performance relative to its operating and capital budgets. He also developed and implemented sales and marketing programs and pursued new opportunities to extend natural gas services to new and previously unserved markets on the Delmarva Peninsula.

Prior to this appointment, he had previously served as the Director of Natural Gas Distribution for the Company's Delaware and Maryland distribution divisions since January 2007, in addition to serving in various other regulatory and accounting positions since joining the Company in 1989.

Mr. Tietbohl is currently a member of the Board of Directors of the Interstate Natural Gas Association of America (INGAA), a trade organization that advocates regulatory and legislative positions of importance to the natural gas pipeline industry in North America. He is also a past President of the Maryland-District of Columbia Utilities Association in 2010 that promotes and develops the natural gas utility industry within the region for the common interest of its customers, members, and the general public.

Mr. Tietbohl earned a Bachelor of Science Degree in Accounting from Wesley College in Dover, Delaware.

Kyle P. Moore, P.M.P., Director of Operations, Aspire Energy of Ohio, LLC, a subsidiary of Chesapeake Utilities Corporation

Mr. Moore is the Director of Operations at Aspire Energy of Ohio LLC, a wholly owned subsidiary of Chesapeake Utilities Corporation. Mr. Moore is responsible for operations in 40 of the 88 counties throughout the State of Ohio; operations include gathering, distribution, compression, dehydration, and processing activities. He is responsible for safety and compliance for all activities. Mr. Moore oversees operations, safety, engineering, GIS, land, construction, supply chain, and other functional teams.

Prior to joining Aspire Energy of Ohio LLC, Mr. Moore worked for Williams Companies in Oklahoma, Texas, and Ohio. He served as the Senior Operations Process Improvement Specialist for Williams Northeast Gathering and Processing Operating area. In that role he completed operations projects in Ohio, West Virginia, and Pennsylvania. He also served as an Engineering and Construction Project Manager where he managed natural gas gathering pipeline projects resulting in excess of 200 miles of new, carbon steel pipeline construction in Ohio to support the development of the Utica Shale. He also led a system planning team for Williams Eagle Ford Shale gas gathering systems in South Texas, which developed and constructed over 1,000 miles of pipeline and numerous gas compression facilities.

Mr. Moore also served as an Active Duty Engineer Officer in the US Army as well as an Engineer Officer in the Ohio Army National Guard, where he currently serves as the Executive Officer of the 16th Engineer Brigade in Columbus, Ohio.

Mr. Moore is a certified Project Management Professional and Lean Six Sigma Black Belt. Mr. Moore holds a Bachelor of Arts degree in American Military History from Marquette University, a Master of Business Administration degree from The Pennsylvania State University, and a Master of Science degree in Geological Engineering from the Missouri University of Science and Technology.

J. Solomon McCloskey, P.E., Director of Engineering and Operations, Eastern Shore Natural Gas, a subsidiary of Chesapeake Utilities Corporation

Mr. McCloskey is the Director of Engineering and Operations at Eastern Shore Natural Gas (ESNG), a wholly owned subsidiary of Chesapeake Utilities Corporation. Mr. McCloskey is responsible for operations of a 480-mile, FERC regulated natural gas transmission pipeline in all three of the counties in the State of Delaware, six counties in the State of Maryland (together known as the Delmarva Peninsula), and two counties in southeastern Pennsylvania. Mr. McCloskey oversees field operations, safety, pipeline integrity, engineering, construction, control room operations, and other functional areas for ESNG. Prior to his current role with ESNG, Mr. McCloskey held several other positions of increasing responsibility within Chesapeake Utilities, including Engineering Integrity Manager, Gas Control Manager, and Senior Manager of Transmission Pipeline Operations.

Prior to joining Chesapeake Utilities Corporation, Mr. McCloskey worked for several engineering consulting firms in Delaware. He served as a Project Engineer for Landmark Engineering and Science, Inc. as well as Design Consultant Group, LLC where he was responsible for the oversight of land development projects including underground utility design and construction, road design and construction, site design and construction, permitting, and environmental compliance.

Mr. McCloskey is a licensed Professional Engineer in the State of Delaware and holds a Bachelor of Science in Electrical Engineering from Widener University.

Benjamin C. Harvey, P.M.P., Engineering Manager, Aspire Energy of Ohio, LLC, a subsidiary of Chesapeake Utilities Corporation

Mr. Harvey is currently the Engineering Manager at Aspire Energy of Ohio LLC, a wholly owned subsidiary of Chesapeake Utilities Corporation. He is responsible for managing Engineering, GIS, and Land teams throughout Aspire Energy of Ohio LLC footprint, which spans 40 of the 88 counties throughout the State of Ohio. He oversees a variety of engineering projects that include; installation/relocation of distribution and gathering natural gas pipelines, metering & regulating stations, transmission pipeline interconnects, compression facilities, and processing facilities. He additionally oversees GIS and Land activities that include; GIS data collection/validation, rights-of-way acquisition, land bonds, and project permitting.

Prior to joining Aspire Energy of Ohio LLC, Mr. Harvey worked for Dominion Energy in Akron, Ohio. He served as an Engineering Project Manager covering Dominion Energy's Ohio footprint. While in this role Mr. Harvey completed over 180 natural gas mainline installation and relocation projects. He also led several successful special project teams, with scopes focused on; innovation, process improvement, and revenue generation. He additionally served as chair for Dominion Energy Ohio's professional development employee resource group.

Mr. Harvey serves on the University of Akron's Mechanical Engineering Advisory Board and is a member of the Project Management Institute.

Mr. Harvey is a certified Project Management Professional. He holds a Bachelor of Science degree in Mechanical Engineering and Master of Business Administration degree in Finance from the University of Akron.

Exhibit C

Pro Forma Financial Statement

The financial information of Aspire's parent company, Chesapeake Utilities Corporation, can be accessed in its most recent quarterly report to the United States Securities and Exchange Commission:

<https://www.sec.gov/cgi-bin/browse-edgar?CIK=0000019745&action=getcompany>

Exhibit D

(consists of the following 10 pages)

RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

GAS TRANSPORTATION SERVICE

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Filed pursuant to PUCO Entry dated _____, 2019 in Case No. 19-2022-PL-ATA

ISSUED: _____, 2019

EFFECTIVE: _____, 2019

Issued By
Aspire Energy Express, LLC
Douglas M. Ward, Vice President

RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

GAS TRANSPORTATION SERVICE**1. DEFINITIONS**

As used herein in conjunction with transportation service, the following terms shall have the meanings indicated below:

- A. **"Btu"** shall mean the British thermal unit as defined by international standards.
- B. **"Business Day"** shall mean any weekday, excluding federal banking holidays.
- C. **"Central Clock Time"** (C.T.) shall mean Central Standard Time adjusted for Daylight Savings Time.
- D. **"Company"** means ASPIRE ENERGY EXPRESS, LLC, its successors and assigns.
- E. **"Customer"** means any individual, governmental body or corporate entity taking transportation service hereunder.
- F. **"Dekatherm"** or **"Dth"** means 1,000,000 Btus. Dekatherm shall be the standard unit for purposes of nominations, scheduling, invoicing, and balancing.
- G. **"Delivery Point(s)"** shall mean the specific measurement location(s) set forth in the Transportation Service Agreement at which the Company delivers Customer-owned gas to Customer and Customer receives such gas from the Company.
- H. **"Delivery Volume"** shall mean the volume of Gas nominated and confirmed at the Delivery Point(s) by or on behalf of the Customer.
- I. **"Firm"** shall mean that each Dth the Customer nominates and the Company confirms at the Receipt Point(s), within the Customer's MDQ, will be delivered to the Customer's Delivery Point(s) minus the Company's Shrinkage without interruption except under Force Majeure conditions, an Operational Flow Order, or an energy emergency declared by the Commission.
- J. **"Gas"** shall mean natural gas of interstate quality.
- K. **"Gas Day"** or **"Day"** shall mean a period of 24 consecutive hours, beginning at 9:00 a.m. Central Clock Time, as adjusted for Daylight Savings Time, and the date of the Day shall be that of its beginning.

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Douglas M. Ward, Vice President

RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

- L. **"Heating Value"** shall mean the gross heating value on a dry basis, which is the number of British thermal units produced by the complete combustion at constant pressure of the amount of dry gas (gas containing no water vapor) that would occupy a volume of one cubic foot at 14.73 psia and 60°F with combustion air at the same temperature and pressure as the gas, the products of combustion being cooled to the initial temperature of the gas and air, and the water formed by combustion condensed to the liquid state.
- M. **"Imbalance"** shall mean the daily difference between the Delivery Volume and the actual metered volumes allocated to Customer at the Delivery Point(s).
- N. **"Interruptible"** shall mean that each Dth the Customer nominates and the Company confirms at the Receipt Point(s), in excess of the Customer's MDQ, will be delivered to the Customer's Delivery Point(s) less the Company's Shrinkage, if the Company, using reasonable judgment, determines that capacity exists after all the Firm transport needs are accounted for to permit redelivery of tendered gas.
- O. **"Maximum Daily Quantity" or "MDQ"** shall mean the maximum daily firm natural gas quantity which the Customer shall be entitled to nominate during any 24-hour period. The Customer's MDQ shall be negotiated between the Customer and the Company and incorporated into the Customer's Transportation Service Agreement with the Company.
- P. **"Month"** shall mean a calendar month beginning at 9:00 a.m. Central clock time on the first day of the calendar month and ending at 9:00 a.m. Central clock time the first day of the following calendar month.
- Q. **"Nomination"** shall mean the confirmed Quantity of Gas which the Customer shall arrange to have delivered to the Receipt Point(s) for redelivery by the Company to the Delivery Point(s). The Nomination shall include sufficient gas to account for the Company's Shrinkage.
- R. **"Operational Flow Order" or "OFO"** shall mean a declaration made by the Company that conditions are such that the Company will only transport the volumes that the Company believes the Customer can actually both tender to the Receipt Point(s) and receive at the Delivery Point(s) on a daily basis.
- S. **"PUCO" or "Commission"** means the Public Utilities Commission of Ohio, or any successor governmental authority.
- T. **"Quantity of Gas"** shall mean the number of units of gas expressed in Dth unless otherwise specified.
- U. **"Receipt Point(s)"** shall mean those measurement locations where Customer-owned gas enters the Company's system.
-

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RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

- V. **“Transportation Service Agreement”** shall mean the individual contract that each Customer shall sign and enter into with the Company prior to commencement of service that identifies the Receipt Point(s) and Delivery Point(s), the MDQ, declares whether the transportation is Firm or Interruptible and establishes the cost for the transportation. .
- W. **“Shrinkage”** shall mean the quantity of Gas required by the Company to replace the estimated quantity of Gas, which is required for compressor fuel, and lost-or-unaccounted-for Gas when transporting the tendered quantities. This percentage will be set forth in the Transportation Service Agreement.
- X. **“Written Notice”** shall mean a legible communication received by the intended recipient of the communication by United States mail or overnight courier. Written Notice may also be provided by Email, but shall not be effective until such time as the Email is acknowledged by the intended recipient.

2. Applicability

Transportation service pursuant to this schedule is available to all Customers who sign a Transportation Service Agreement with the Company, demonstrate that they have the ability to tender natural gas to the Receipt Point(s), and have made suitable arrangements for such tendered volumes to be delivered to the Delivery Point(s) called for in the Transportation Service Agreement.

3. Term

Customers that elect to request transportation service will be required to execute a written Transportation Service Agreement prior to the commencement of any transportation service. Unless otherwise agreed in the Transportation Service Agreement, transportation service agreements shall provide for a primary term of one (1) year, continuing thereafter on a month to month basis subject to cancellation by the Company or the Customer on 30 days' written notice or as otherwise agreed by Company.

4. Types of Service and Capacity

The Company shall offer Firm service to a Customer who requests such service, meets tariff standards and executes a Transportation Service Agreement but only if the Company using good industry practice believes it has sufficient pipeline capacity available after accounting for the projected demand of the existing Firm service load to serve such Customer. The Company shall offer Interruptible service to all Customers who request such service, meet the tariff standards and execute a Transportation Service Agreement.

Where the Company has agreed to provide a Customer with Firm service, the Transportation Service Agreement will specify the Company's pipeline capacity allocated to and reserved on

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RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

behalf of the Customer for redelivery of the Customer's supply in terms of the MDQ that can be tendered to the Receipt Point(s) on a daily basis, and the maximum amount which can be transported to a particular Delivery Point. A Customer may have several Delivery Points, but the aggregate of the daily firm accessible Delivery Points must equal or exceed the Receipt Point(s) MDQ, adjusted for Shrinkage.

The Company shall have no obligation to accept any Nomination in excess of the Customer's MDQ. If requested by the Customer, the Company may accept a Nomination and subsequent tender of an amount in excess of the Customer's MDQ on a non-discriminatory basis and if the Company reasonably believes it can physically accommodate the request.

5. Delivery and Transportation

The Customer shall arrange with its gas suppliers to have Gas tendered to the Receipt Point(s) for delivery to the Delivery Point(s) in a volume designed to match the Customer's Nomination at the Delivery Point(s) plus Shrinkage for each Day in an amount not to exceed the Customer's MDQ. The Company shall then redeliver, on a firm basis, such quantities, less the Company's Shrinkage, to the Customer at the Delivery Point(s) as specified on Exhibit A of the Customer's Transportation Service Agreement. Transportation service under the Transportation Service Agreement shall be governed by: 1) the Transportation Service Agreement; 2) these Rules and Regulations Governing the transportation of Gas ("Rules and Regulations"); provided, however, the Transportation Service Agreement shall control in the event of any conflict between it and these Rules and Regulations; and 3) the rules and orders of the Commission.

Unless otherwise specified in the Transportation Service Agreement, the Customer shall submit its Nomination to the Company by no later than 11:30 am Central Clock Time for Gas flow the following day. This Nomination should correspond to scheduled deliveries the Customer makes on the upstream interstate pipeline and any downstream local gas distribution and/or interstate pipeline company operating the applicable Delivery Point(s). Should the Customer desire to modify its Nomination either on the current Day or after the Nomination deadline for Gas flow the following day, the Company shall make every attempt to accommodate the Customer's request provided the Company can confirm such quantities with the upstream pipeline at the Receipt Point(s) and downstream entity at the Delivery Point(s).

After the Customer delivers gas or causes gas to be delivered to the Company at the Point(s) of Receipt specified in the Transportation Service Agreement, the Company shall be deemed to be in control and possession of the gas until thermally equivalent quantities (less Shrinkage) are redelivered to the Customer or for the account of the Customer at the Point(s) of Delivery. The Customer shall have no responsibility with respect to any gas deliverable by the Company or on account of anything, which may be, done, happen, or arise with respect to such gas until the Company delivers such gas to the Customer or for the account of the Customer. The Company shall have no responsibility with respect to such gas before the Customer delivers or causes such gas to be delivered to the Company or after the Company redelivers such gas to the Customer or

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RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS

for the account of the Customer, or on account of anything which may be done, happen, or arise with respect to such gas before such delivery or after such redelivery.

6. Shrinkage

Unless otherwise agreed to in the Transportation Service Agreement, the Customer shall have the right to retain, pursuant to this schedule, 100% of the gas delivered to the Receipt Point(s), less the Shrinkage.

7. Transportation Rate

The rates and charges for transportation service will be established pursuant to the Transportation Service Agreement to be submitted to the Commission for approval under Section 4905.31, Revised Code.

8. Imbalances

Procedures and penalties related to Imbalances shall be set forth in the Customer's Transportation Service Agreement.

9. Title to Gas

Any Customer taking natural gas transportation service pursuant to this Tariff warrants that it has title to the gas delivered to Company free and clear of all claims, demands, obligations, liens and encumbrances, and covenants and agrees to indemnify and hold harmless Company from all suits, actions, debts, accounts, damages, costs, losses, liens, judgments, orders, attorney fees, expenses and liabilities arising from or attributable to the adverse claims of any and all other persons or parties to such gas.

The Customer and the Company each assume full responsibility and liability for the maintenance and operation of its respective properties and shall indemnify and save harmless the other party from all liability and expense on account of any and all damage, claims or actions, including injury to and death of persons, arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party; provided however, that neither party agrees to indemnify the other party for the negligence of the other party, its agents, servants or employees.

10. Operational Flow Orders

The following paragraph shall apply if the Customer's Transportation Service Agreement does not address Operational Flow Orders.

In the event any one of the following occur: 1) any upstream interstate pipeline supplying the Company declares a force majeure or an operational flow order; 2) the Commission or the

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Governor or any other lawful official or body in Ohio declare an energy emergency; 3) if weather or usage conditions create a situation in which the Company reasonably believes that it cannot accommodate an imbalance from the Customer or 4) any system safety issue arises that limits the Company's ability to safely transport gas, the Company may issue an Operational Flow Order. During an Operational Flow Order the Customer may only tender and receive those volumes that the Company believes the Customer can actually both tender to the Receipt Point(s) and receive at the Delivery Point(s) on a daily basis. The Company will use its best efforts to avoid an Operational Flow Order if reasonably possible, and maintain the Operational Flow Order for as limited a period of time as is reasonably possible.

11. Quality

The gas received by Company for Customer's account shall be natural gas conforming to the quality specifications as provided for in the FERC gas tariffs of the immediately upstream pipeline(s) on which the gas was transported. The gas delivered by Company to any Point of Delivery shall be natural gas conforming to the least stringent of the quality specifications contained in the respective FERC gas tariffs of the upstream pipeline(s) that interconnect with Company's system.

Company may perform odorization, or cause to have odorization to be performed, prior to delivery. Such odorization of gas shall not be construed as interfering with the merchantability of gas delivered.

If the natural gas received from Customer or Customer's supplier by Company for delivery shall fail at any time to conform to any of the quality specifications required by these Rules and Regulations or might otherwise interfere with or adversely affect the normal operation of the facilities of Company or Company's other customers, then upon notification by Company to Customer, Company may, at its option, refuse to accept such gas pending correction by Customer or Customer's supplier. In addition, Customer shall be responsible for, and shall indemnify and hold Company harmless from, any damages or liability for injury to or death of any persons, or damage to property of Company or of third parties, or any other costs, liabilities and expenses incurred by Company, as a result of such receipt or delivery of natural gas of non-conforming quality.

12. Billing and Payment

On or before the tenth (10th) day of each calendar month, the Company shall render to the Customer a statement setting forth the total quantity of Gas nominated by the Customer and confirmed by the Company pursuant to this Tariff during the immediately preceding Month, the billing rate and the amount due. Billing statements shall be deemed as rendered when such statements are deposited by the Company with the U.S. Mail for first-class delivery, as evidenced by the postmark date, deposited by the Company with an overnight courier service for delivery to the Customer, sent via facsimile machine to the Customer or hand-delivered to the Customer's office.

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If it shall be found that at any time or times the Customer has been overcharged or undercharged in any form whatsoever and the Customer has actually paid the bills containing such overcharge or undercharge, the Company shall refund the amount of any such overcharge or the Customer shall pay the amount of any such undercharge within thirty (30) days after final determination of such amounts. In the event an error is discovered in the amount billed in any statement rendered by the Company, such error shall be adjusted within thirty (30) days from the date of discovery of such error provided however, that in no event shall any adjustment be made to any statement after twelve (12) months from the date of such statement.

The Customer shall make payment to the Company for services purchased during the preceding month and billed pursuant to the provisions of this Tariff on or before the twenty-fifth (25th) day of the month, unless otherwise agreed to the Transportation Service Agreement. Payment shall be made by wire transfer of Federal Funds at such bank account designated by the Company, except when such day of the month is a Saturday, Sunday or federal bank holiday, in which case payment is due on the following Business Day. All such payments shall be considered to have been made on the date when the Company has use of such funds.

If the Customer, in good faith, disputes the amount of any such invoice or any part thereof, the Customer will pay such amount as it concedes to be correct: provided, however, if the Customer disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

If the Customer fails to remit the full amount when due, the amount not paid by the due date shall be increased by 1.5 percent (1.5%) of the amount not timely paid each month.

The following paragraph shall apply if the Customer's Transportation Service Agreement does not address Customer's credit support requirements.

The Company reserves the right to review the Customer's credit worthiness at any time. Upon request, but not more than twice in any 12-month period, the Customer must provide current financial credit information. If the Customer's current financial or credit status will not support the level of service contracted for, the Company may request that the Customer post the appropriate amount of collateral. Collateral may be in the form of a prepayment, cash deposit, letter of credit, creditworthy parent guarantee or other security acceptable to the Company.

13. Discontinuance of Supply on Notice of Defect in Customer's Property

If the Customer service line, Customer piping, pressure regulators, fittings, valves, connections, equipment, venting and any other associated equipment on Customer's premises are defective or in such condition as to constitute a hazard, the Company, upon notice to it of such defect or condition and reasonable notice to the Customer, may discontinue the supply of gas to such

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Customer until such defect or condition has been rectified by the Customer in compliance with the reasonable requirements of the Company.

14. Responsibility for Material or Workmanship

The Company is not responsible for maintenance of, or any imperfect material or defective or faulty workmanship in, the Customer service line, Customer piping, pressure regulators, fittings, valves, connections, equipment, venting and any other associated equipment and is not responsible for any loss or damage arising from inadequate or improper maintenance or from imperfect material or defective or faulty workmanship.

15. Right to Shut Off Gas

After reasonable notice and at its sole discretion, the Company shall have the right to discontinue service and the right to disconnect and remove from the premises of any Customer the meter and any other property belonging to the Company for any of the following reasons or purposes:

- (1) Refusing access;
- (2) Non-payment of Company invoices when due under the Transportation Service Agreement;
- (3) Theft of service, tampering of property, or fraudulent representation or practice;
- (4) Customer vacates premises;
- (5) When a safety hazard or emergency may threaten the health and safety of others or other property;
- (6) When a Customer uses gas in a manner detrimental to the service of others;
- (7) Violation of law; and
- (8) Termination of Customer's Transportation Service Agreement.

16. General Terms and Conditions

- A. Services provided under this schedule are subject to all applicable Federal, State of Ohio and local laws and to the orders, rules and regulations of any federal, State or local agencies having jurisdiction thereof.
- B. Any imbalance charges under the Transportation Service Agreement shall not be construed as Company's exclusive remedy in the event that Customer fails to fulfill its balancing obligations. In addition, nothing herein shall preclude Company from waiving an imbalance rate or charge provided Customer has undertaken reasonable efforts to eliminate the imbalance condition, the frequency and magnitude of the imbalance condition does not, in the Company's judgment, indicate Customer is utilizing the imbalance to obtain an economic advantage related to the cost of natural gas or transportation and related services or the imbalance condition does not disadvantage other customers or Company.

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If the Company believes that the Customer may be creating imbalances on the Company's system in order to obtain an economic advantage, it will notify the Customer in writing of such belief and the Customer will have the opportunity to respond. If, within the sixty (60) day period following such notice, the Company concludes that the Customer has engaged in such imbalance activity, the Company may terminate gas transportation service by giving the Customer ten (10) days' notice prior to the end of the calendar month.

- C. Company has the right to inspect and/or test all measuring equipment at its discretion. Customer may request that a meter be tested no more than once every twelve (12) months and Customer will have the right to witness any such test. If the meters test within 2% or better of accurate measurement, then the cost of the test shall be paid by party requesting the test. If the meters are found to be inaccurate by more than 2%, the party owning the meter shall pay for the test. No adjustment based upon meter inaccuracies shall be made for delivery charges or natural gas imbalances unless a meter tests inaccurate by more than 2%. Any such billing correction shall only be to the 2% error level for a period of time no longer than half the period from the date of the last meter testing or six months, whichever is less.
- D. No waiver by the Company or the Customer of one or more defaults by the other of the provisions of service under this schedule shall be construed as a waiver of any other or further default or defaults, whether of a like or a different character.
- E. Any force majeure provisions shall be as set forth in the Customer's Transportation Service Agreement.

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Summary: Application for Authority to Operate as an Ohio Pipeline Company electronically filed by Mr. Michael J. Settineri on behalf of Aspire Energy Express, LLC