

**KERN RIVER GAS TRANSMISSION COMPANY
ACCESS AGREEMENT**

This Access Agreement ("Agreement") is entered into this _____ day of _____, 20____ by and between **KERN RIVER GAS TRANSMISSION COMPANY** ("Pipeline") and _____ ("Subscriber"). Pipeline and Subscriber shall be collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Pipeline and Subscriber desire to enter into this Agreement to provide Subscriber with access to Pipeline's proprietary electronic bulletin board, Real-Time Automated Pipeline Integrated Data System, and/or designated internet site (collectively "EBB").

NOW, THEREFORE, in consideration of the premises and mutual agreements herein contained, Pipeline and Subscriber agree as follows:

ARTICLE I - SCOPE OF AGREEMENT

1.1 Pipeline shall make available to Subscriber the EBB to allow Subscriber to have access to certain information provided by Pipeline and/or to perform certain activities, including but not limited to, electronic contracting, customer activities, nominations, flowing gas, invoicing, and capacity releases in accordance with the provisions of this Agreement and the provisions of the General Terms and Conditions of Pipeline's Federal Energy Regulatory Commission ("FERC") Gas Tariff. Performing certain activities, including electronic contracting, will result in the creation of an electronic record. An electronic record means a record between Pipeline and Subscriber, created, generated, sent, communicated, received, or stored by electronic means through the EBB.

ARTICLE II - TERMS AND CONDITIONS OF AUTHORIZED USE

2.1 Subscriber will gain access to the EBB through the internet and Subscriber shall be responsible for acquiring and maintaining from time to time the computer equipment and internet connection necessary to properly and adequately use the EBB.

2.2 Pipeline will provide Subscriber with a Customer ID and password(s) as needed to access the EBB. Subscriber shall be responsible for securing and keeping confidential its Customer ID and all passwords and preventing their improper and unauthorized use. Upon Subscriber's request, Pipeline will terminate Subscriber's current Customer ID and/or password(s) and reissue new ones. Any user of Subscriber's Customer ID and password(s) shall be considered agents of Subscriber for the limited purpose of using the EBB and Subscriber must promptly notify Pipeline by voice or fax of any breach of security, such as loss, theft or unauthorized disclosure or use of its Customer ID and password(s). Until Pipeline is notified and has a reasonable opportunity to terminate Subscriber's Customer ID and/or password(s), Subscriber will remain liable for unauthorized or improper use of, transactions conducted on, or electronic records created on, the EBB.

ARTICLE III - INITIATION/MODIFICATION OF SERVICE

- 3.1 Subscriber may transact business on the EBB after complying with Pipeline's credit requirements. Subscriber may submit a request for new service or amendment to existing service via the EBB. Following transmittal of such request, the request shall be evaluated and approved or rejected by Pipeline in accordance with the General Terms and Conditions of its FERC Gas Tariff. If such request is approved by Pipeline, Subscriber will be notified by Pipeline of such approval via the EBB. Transporter will not be obligated to render any service as described in Subscriber's request prior to execution by both parties of a Transportation Service Agreement, as defined in Pipeline's FERC Gas Tariff.
- 3.2 Subscriber, by its transmittal via the EBB of a request for new or changed service, warrants to Pipeline that the information in the request is correct and accurate and that all necessary transportation arrangements with the upstream and downstream transporters have been or will be secured prior to the commencement of the requested transportation service and that Subscriber will have title, or the right to acquire title, to the Gas that is to be delivered to Pipeline.
- 3.3 Except as Subscriber notifies Pipeline of cancellation or improper or unauthorized use of Subscriber's Customer ID and password(s) as provided in Section 2.2, automated transactions and electronic records will be attributed to Subscriber if conducted on the EBB. Subscriber agrees that the executing, approving, agreeing to, or entering into a transaction on the EBB shall constitute an automated transaction and an enforceable agreement or contract between the parties when Subscriber's Customer ID and password(s) are used.
- 3.4 Subscriber and Pipeline agree and designate that the EBB will be the information processing system from which Subscriber will receive and retrieve electronic records. Subscriber and Pipeline agree that an electronic record shall be considered sent and received when the final process on the EBB for approving, accepting, submitting, or executing an electronic record occurs (at which point Subscriber shall be able to print a copy of the electronic record).
- 3.5 Subscriber agrees that each automated transaction on the EBB specifically incorporates Pipeline's FERC Gas Tariff as it currently exists or is modified.

ARTICLE IV - RELEASE AND DISCLAIMER OF LIABILITY/INDEMNIFICATION

- 4.1 Except for the negligence, bad faith, fraud or willful misconduct of Pipeline, Pipeline expressly disclaims any and all liability for loss or damage to Subscriber or to any third parties associated with Subscriber's use of the EBB, including but not limited to any loss or damage resulting from any one or more of the following: (1) Subscriber's negligent or otherwise improper use of the EBB; (2) any unauthorized use of the EBB; (3) any acts of God or force majeure, as defined in Section 7 of the General Terms and Conditions in Pipeline's FERC Gas Tariff, including, but not limited to, electrical shortage and/or

power outages; (4) any defects in computer hardware; or (5) any interruption in or malfunction of electronic communication or transmission not within Pipeline's control. Such causes or contingencies affecting the performance of this Agreement shall not relieve Pipeline of liability in the event (a) it fails to use due diligence to remedy the situation and remove the causes or contingencies affecting performance of this Agreement or (b) it fails to give Subscriber notice and full particulars of the same in writing or by telephone or fax or overnight courier in accordance with Article VI of this agreement as soon as possible after the event or situation arises.

- 4.2 Subscriber agrees to protect, defend, indemnify, and hold harmless Pipeline against any and all loss, costs, damages, and expenses of any nature whatsoever (including court costs and reasonable attorney's fees), resulting from or otherwise related to any claim, demand, or action asserted against Pipeline, arising from or connected with Subscriber's use of the EBB and the use of Subscriber's Customer ID and password(s) except for claims involving the negligence, bad faith, fraud or willful misconduct of Pipeline.
- 4.3 Pipeline expressly disclaims any and all warranties, including, without limitation, any warranties of merchantability or fitness for a particular purpose and further disclaims any warranties as to the availability, accuracy, or content of information placed on the EBB by third parties.
- 4.4 Neither Pipeline or Subscriber shall be liable to the other party or to any other party for any special, indirect, punitive or consequential damages (including, without limitation, loss of profits or business interruptions) arising out of or in any manner related to this Agreement, the use of the EBB or any information contained therein.

ARTICLE V - TERM/FILINGS

- 5.1 This Agreement shall become effective as of the date first above written and shall remain in force and effect until terminated by Subscriber or Pipeline for due cause upon ten (10) days written notice to the other party. Subscriber agrees that Pipeline shall have the unilateral right to file with the appropriate regulatory authority to make changes in the rates, charges, terms and conditions applicable to service pursuant to this Agreement or any provisions of the General Terms and Conditions applicable to this Agreement. Pipeline agrees that Subscriber may protest or contest the aforementioned filings and that Subscriber does not waive any rights it may have with respect to such filings.

ARTICLE VI - NOTICES

- 6.1 Unless provided otherwise, notices under this Agreement shall be in writing and shall be sent by either U.S. mail, overnight courier, or by facsimile, to the party intended to receive the same, as specified below or at such other address as either Party shall designate by formal written notice to the other. All such notices shall be followed by telephone confirmation by the sending party.

Pipeline:
KERN RIVER GAS TRANSMISSION COMPANY
Attention: Marketing and Customer Services
2755 E. Cottonwood Parkway, Suite 300
Salt Lake City, UT 84121
Phone: (801) 937-6111
Facsimile: (801) 937-6444

Subscriber:

Attention: _____

Phone: _____
Facsimile: _____

Notices shall be effective on the next business day after it was received. The Parties may change its address, telephone or facsimile number under this Article at any time by providing written notice to the other.

ARTICLE VII - MISCELLANEOUS

- 7.1 Conformance with Tariff – Subscriber's use of the EBB shall be in accordance with and subject to Pipeline's currently effective FERC Gas Tariff, including any and all applicable provisions of the General Terms and Conditions and the terms and conditions of any relevant rate schedules, all of which terms and conditions are incorporated herein by reference. In the event of a conflict between the terms and conditions of this Agreement and any other applicable terms and conditions set forth in Pipeline's FERC Gas Tariff, the terms and conditions of the Tariff shall govern. For Subscriber's convenience, the terms and provisions of Pipeline's FERC Gas Tariff are available on the EBB. In the event of a conflict between what is displayed on the EBB and Pipeline's currently effective FERC Gas Tariff on file with the Federal Energy Regulatory Commission (FERC), Pipeline's currently effective tariff on file with FERC shall govern.
- 7.2 THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH AND CONTROLLED BY THE LAWS OF THE STATE OF UTAH, WITHOUT REGARD TO DOCTRINES GOVERNING CHOICE OF LAW. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

- 7.3 This Agreement and the obligations of the Parties are subject to all present and future valid laws with respect to the subject matter, either State or Federal, and to all valid present and future orders, rules, and regulations of duly constituted authorities having jurisdiction.
- 7.4 If any provision of this Agreement is declared null and void, or voidable, by a court of competent jurisdiction, then that provision will be considered severable at either Party's option; and if the severability option is exercised, the remaining provisions of the Agreement shall remain in full force and effect.
- 7.5 Unless otherwise expressly provided in this Agreement or in Pipeline's FERC Gas Tariff, no modification of or supplement to the terms and provisions hereof shall be or become effective, except by the execution by both parties of a written amendment.
- 7.6 This Agreement, as of the date of its execution, shall supersede and terminate any previously executed agreements between Pipeline and Subscriber with respect to the use of the EBB.
- 7.7 Pipeline reserves the right to modify or replace the EBB at any time.
- 7.8 This Agreement may be executed in multiple counterparts, all of which (including copies thereof) shall constitute one and the same instrument, and each of which (including copies thereof) shall be, and shall be deemed, an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed in several counterparts as of the date first herein above written.

KERN RIVER GAS TRANSMISSION COMPANY

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____