

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Equitrans, L.P.

Docket No. RP07-325-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS,
SUBJECT TO REFUND AND CONDITION
AND ESTABLISHING A TECHNICAL CONFERENCE

(Issued March 29, 2007)

1. On March 1, 2007, Equitrans, L.P. (Equitrans) filed three tariff sheets¹ to institute a surcharge to recover certain costs incurred by Equitrans under the Pipeline Safety Improvement Act of 2002 (PSIA). Equitrans asserted these costs are “Qualifying Costs” pursuant to section 38 of the General Terms and Conditions (GT&C) of Equitrans’ tariff.² Equitrans requests that the tariff sheets and the surcharge be made effective April 1, 2007. The filing was protested. As discussed below, the Commission accepts and suspends the proposed tariff revisions, to become effective April 1, 2007, subject to refund and condition, and subject to the outcome of a technical conference established by this order.

Details of the Filing

2. Equitrans states that section 38 of its GT&C, as approved by the Commission as part of a settlement in Docket No. RP05-164-000, *et al.*,³ sets forth a Pipeline Safety Cost Tracker (PSCT) tracking mechanism for the recovery of Qualifying Costs incurred by Equitrans under the PSIA. Equitrans states that during the applicable tracking period for the instant filing, September 1, 2005 through December 31, 2006, Equitrans incurred total

¹ Seventeenth Revised Sheet No. 5, Twenty-Sixth Revised Sheet No. 6 and Fifteenth Revised Sheet No. 10 to Equitrans, L.P.’s FERC Gas Tariff, Original Volume No. 1.

² Section 38 is entitled “Pipeline Safety Cost Tracker (PSCT) Mechanism,” and is found on Original Sheet Nos. 313 and 314 of Equitrans, L.P.’s FERC Gas Tariff, Original Volume No. 1.

³ *Equitrans, L.P.*, 115 FERC ¶ 61,007 (2006).

costs to the PSIA in the amount of \$1,717,715, which, when divided by the total billing determinants of 53,979,080 Dth, yields a surcharge of \$0.0318 per Dth. Equitrans states it has submitted workpapers in support of its calculations in Appendix B to the instant filing, as required by section 154.403 of the Commission's regulations.

Notice, Interventions and Protests

3. Public notice of the filing was issued on March 6, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214,⁵ all timely motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Comments were filed by Columbia Gas of Pennsylvania, Inc. (CPA), and the Peoples Natural Gas Company d/b/a Dominion Peoples and Hope Gas, Inc., d/b/a Dominion Hope (the Dominion LDCs). Protests were filed by KeySpan Delivery Companies (KeySpan) and the Independent Oil & Gas Association of West Virginia (IOGA). The Philadelphia Gas Works (Philadelphia) filed a request for a technical conference.

4. In general, the parties support the important goals of the PSIA and submit that Equitrans should be encouraged to comply with federal safety laws. However, the parties also generally question the validity of the costs Equitrans seeks to recover and the underlying support for these costs.

5. IOGA observes that costs associated with a segment of Equitrans' H-152 pipe appear to make up over two-thirds of the costs underlying the proposed surcharge. IOGA asserts that Equitrans offers no other detail or explanation of this cost in its filing and has failed to meet its burden under section 4 of the Natural Gas Act (NGA) to show that these costs are eligible for recovery under the PSCT tracking mechanism. IOGA states it is unable to determine whether Equitrans' proposed surcharge complies with its tariff or whether what appears to be the replacement of a pipeline segment is a Qualifying Cost or a capital expenditure that would have been made in the ordinary course of business.

6. KeySpan contends that when the Commission approved Equitrans' PSCT tracker, it specifically directed Equitrans to add a "Qualifying Costs Proviso" to its tariff to exclude, from recovery through the PSCT tracker, costs that would otherwise be incurred

⁴ 18 C.F.R. § 154.210 (2006).

⁵ 18 C.F.R. § 385.214 (2006).

in the ordinary course of business.⁶ Specifically, KeySpan explains that “Qualifying Costs” under the PSCT “shall not include costs associated with operation and maintenance expenses or capital additions made in the ordinary course of business.”⁷

7. CPA asserts that, while the instant filing contains high-level summaries of both the capital costs and operation and maintenance expenses which Equitrans proposes to recover, there has been no explanation by Equitrans as to how or why these costs were required in order to comply with the PSIA, and no showing that they are not “costs associated with operation and maintenance expenses or capital additions made in the ordinary course of business,” which are not recoverable under the PSCT tracker. In addition, CPA observes that the instant filing includes the calculation of Equitrans’ proposed billing determinants, but includes no explanation of the assumptions used in making that calculation.

8. Philadelphia also questions whether Equitrans would have avoided certain investments and O&M costs but for the PSIA. Philadelphia contends that before these costs may be deemed as qualified, Equitrans must establish that it would not otherwise have incurred these expenses. Philadelphia requests that Equitrans be required to set forth its position as to these matters at a technical conference.

Discussion

9. The parties have raised many issues that require further review. Therefore, the Commission accepts and suspends Equitrans’ filing, to be effective April 1, 2007, subject to refund and condition. The Commission also directs Staff to establish a technical conference to examine the issues raised in the instant filing. Staff is further directed to report the results of the technical conference to the Commission within 120 days of the issuance of this order.

Suspension

10. Based on a review of the filing, the Commission finds that the proposed tariff sheets listed in the Appendix have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets for filing and suspend their effectiveness for the period set forth below, subject to refund and condition.

⁶ *Equitrans, L.P., Order on Uncontested Settlement and Compliance Filings*, 115 FERC ¶ 61,007 at P. 26.

⁷ *Id.* and GT&C section 38.1.

11. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.⁸ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁹ Here, where Equitrans is seeking recovery of costs pursuant to an approved tracking mechanism, the Commission will exercise its discretion to accept and suspend these tariff sheets for a minimal period, to become effective April 1, 2007, subject to refund and other conditions.

The Commission orders:

(A) The tariff sheets in the instant filing are accepted and suspended, subject to refund and condition, and subject to the outcome of a technical conference as established by this order, to become effective April 1, 2007.

(B) Staff shall report the results of the technical conference to the Commission within 120 days of the issuance of this order.

By the Commission.

(S E A L)

Philis J. Posey,
Acting Secretary.

⁸ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

⁹ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).