

122 FERC ¶ 61,288
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 27, 2008

In Reply Refer To:
Equitrans, L.P.
Docket No. RP08-223-000

Equitrans, L.P.
225 North Shore Drive
Pittsburgh, Pennsylvania 15212-5861

Attention: David K. Dewey
Vice President and General Counsel

Reference: Pipeline Safety Cost Tracker Filing

Dear Mr. Dewey:

1. On February 29, 2008, Equitrans, L.P. (Equitrans) filed tariff sheets¹ to recover costs incurred by Equitrans under the Pipeline Safety Improvement Act of 2002 (PSIA). Equitrans asserts 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, 2008. The filing was protested. As discussed below, the Commission accepts and suspends the proposed tariff revisions, to become effective April 1, 2008, subject to refund and condition, and further Commission action.

¹ Twentieth Revised Sheet No. 5, Thirtieth Revised Sheet No. 6 and Seventeenth 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. As set forth in GT&C section 38.1 of Equitrans’ tariff, the Qualifying Costs recoverable through the PSCT surcharge shall include (i) the return, taxes and depreciation expense associated with invested capital; and (ii) the actual operating and maintenance expenses incurred by Equitrans.

2. Section 38 of the GT&C of Equitrans' FERC Gas Tariff, Original Volume No. 1, 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 for the twelve months ending March 31, 2007 (the historic period), Equitrans estimates a slight over-collection of the 2005-2006 costs recovered through the PSCT approved by the Commission effective April 1, 2007. Equitrans also states that during the calendar year of 2007, it incurred total costs related to the PSIA in the amount of \$4.9 million which, when adjusted for the projected over-collection for the 2005-2006 period, and divided by projected transportation determinants for the period April 1, 2008, through March 31, 2009 (the future period), of 56,570,354 dekatherms (dth), yields a surcharge of \$0.086 per dth.

3. Equitrans states that it has included with the filing as Appendix B, certain workpapers as required by section 154.403 of the Commission's regulations. Equitrans asserts that these workpapers explain how Equitrans calculated the Qualifying Costs it proposes to recover through its PSCT in the filing and derived the proposed surcharge. In particular, Equitrans notes that Worksheet WP-5 provides an itemized listing and description of the specific expenses Equitrans incurred performing required compliance activities under the PSIA.

4. Equitrans recounts that as a result of its PSCT filing last year the Commission convened a technical conference, at which Equitrans made a detailed presentation explaining the scope and nature of its expenditures under the PSIA. Equitrans asserts that, as demonstrated at the technical conference, it compiled all of the data required by the pipeline safety regulations and then made an engineering determination that infrastructure renewal, in several instances, provided the lowest risk, lowest cost compliance strategy. Equitrans asserts in the instant filing that the nature of the costs for which it is seeking recovery is the same as was explained by Equitrans at last year's technical conference. The proposed surcharge recovers only Qualifying Costs that were incurred to comply with the PSIA, and does not include costs associated with operation and maintenance expenses or capital additions made in the ordinary course of business. Therefore, Equitrans requests that the Commission find the proposed tariff sheets are just and reasonable and accept them to be effective April 1, 2008.

5. Public notice of the filing was issued on March 3, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.³ Pursuant to Rule 214,⁴ 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

³ 18 C.F.R. § 154.210 (2007).

⁴ 18 C.F.R. § 385.214 (2007).

of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. A protest was filed by the Independent Oil & Gas Association of West Virginia (IOGA).

6. IOGA states that it continues to support the important goals of the PSIA and submits that Equitrans should be encouraged to comply with federal safety laws. However, IOGA contends that no party to the settlement in Docket No. RP05-164-000, *et al.*⁵ expected that the pipeline safety cost tracker (PSCT) mechanism would result in a surcharge that equals nearly 50 percent of Equitrans' base interruptible transportation rate. IOGA acknowledges that, compared to last year's PSCT filing, Equitrans has provided additional detail of its proposed costs in its filing. However, IOGA states it is unable to determine whether Equitrans' proposed surcharge complies with its tariff.

7. IOGA questions whether the costs and investments included in the tracker are Qualifying Costs, as defined in GT&C section 38.1. IOGA urges the Commission, prior to approving the increase in the tracker surcharge, to determine whether Equitrans has incurred any such expenses or made such additions in the ordinary course of business that are not purely related to pipeline safety compliance. IOGA states that, by reviewing examples of transmission investment or maintenance made in the ordinary course of business and comparing such expenses to the claimed safety-related costs, the Commission and the interested parties can better determine whether the costs Equitrans proposes to collect through the tracker properly qualify under the tariff. IOGA also urges the Commission to assure that Equitrans is investing in routine maintenance that will help mitigate pipeline safety-related expenses in the future. IOGA states that the parties need to be assured that Equitrans is not systematically replacing every piece of bare steel pipe on its system in the guise of safety, and essentially implementing a construction tracker between rate cases.

8. IOGA also questions whether the costs are properly classified under the Accounting Order as capital expenses or maintenance expenses. IOGA notes that on Workpaper 8, Equitrans provides only limited detail of its proposed \$20,744,228 of new capital investments, breaking the costs down into five general categories: Materials, Outside Services, Overheads, AFUDC, and Miscellaneous. IOGA contends that it is unclear whether all of these costs qualify as capital expenses that are includible in rate base or as maintenance expenses under the Accounting Order. IOGA states that the \$14,726,839 in Outside Services included on Workpaper 8 does not provide sufficient information to distinguish between true capital costs and expenses that would be recoverable as cost of service items, but not in rate base. IOGA argues that, given that the most significant components of the tracker are return and taxes on rate base, Equitrans must demonstrate that the rate base includes only

⁵ *Equitrans, L.P.*, 115 FERC ¶ 61,007 (2006).

appropriate capital expenses and that all costs have been properly accounted for as required by the Accounting Order. IOGA states that Equitrans is not entitled to a return or tax allowance on mere cost of service items. Before approving the surcharge, IOGA urges the Commission to determine the exact nature of the costs of Outside Services, Overheads, and Miscellaneous costs and should require Equitrans to remove costs from its surcharge rate base which do not qualify as capital investment costs under the Accounting Order.

9. IOGA asserts that costs related to the abandoned or incremental Line H-156 facilities, also known as the Three Rivers Pipeline, should not be included in the tracker surcharge. IOGA notes that Equitrans proposes to recover \$695,135 in capital investment involving Line H-156. IOGA states that on October 24, 2007, in Docket No. CP07-410-000, the Commission granted Equitrans' application to abandon 71.6 miles of the 87.1 mile Line H-156 both in place and by sale to Equitable Gas Company, the only customer using this incremental facility.⁶ IOGA states that, while the 1.4 miles of pipe Equitrans replaced may be among the H-156 facilities Equitrans did not abandon, there is no way to determine this from the instant filing.

10. IOGA asserts that, regardless of whether the costs relate to facilities still in service, Line H-156 is an incremental rate facility. IOGA contends that incremental rate shippers responsible for the cost of Three Rivers Pipeline should be responsible for any cost of compliance with the PSIA.⁷ IOGA states that the Commission has not determined that the facilities benefit all of Equitrans' customers, and shippers that do not use Line H-156 should not be responsible for its costs, through the tracker or otherwise. Accordingly, IOGA urges the Commission to exclude the costs associated with Line H-156 from the tracker, and permit Equitrans to apply to establish a separate surcharge for PSIA costs associated with incremental transmission facilities such as Three Rivers.

11. IOGA has raised issues that require further review. Therefore, the Commission accepts and suspends Equitrans' filing, to be effective April 1, 2008, subject to refund and condition, and subject to further explanation by Equitrans.

12. Within thirty days of the date of the order, Equitrans is directed to file additional explanations of its proposal. Specifically, Equitrans is directed to address the issues raised by IOGA, and to provide detailed support and explanation for:

⁶ *Equitrans, L.P.*, 121 FERC ¶ 62,053 (2007).

⁷ IOGA cites, *e.g.*, *Florida Gas Transmission Company*, 118 FERC ¶ 61,264, at P 5 (2007), and contends that Florida Gas separately tracks PSIA capital costs for incremental and non-incremental facilities.

- Whether the costs and investments included in the tracker are Qualifying Costs, as defined in GT&C section 38.1;
- Whether the costs are properly classified under the Accounting Order as capital expenses or maintenance expenses;
- Whether the 1.4 miles of pipe Equitrans replaced is among the H-156 facilities Equitrans did not abandon; and,
- Why the Qualifying Costs associated with Line H-156 should be recovered through the PSCT that applies to all of Equitrans' shippers.

13. Based on a review of the filing, the Commission finds that the proposed tariff sheets 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.

14. 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, 2008, subject to refund and other conditions.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties
Public File

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).