126 FERC ¶ 61,295
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 30, 2009

In Reply Refer To:
Equitrans, L.P.
Docket No. RP09-404-000

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

Attention: Joseph M. Dawley
Counsel, Energy and Environmental Law

Reference: Pipeline Safety Cost Tracker Filing

Dear Mr. Dawley:

1. On February 27, 2009, Equitrans, L.P. (Equitrans) filed tariff sheets[1] to update Equitrans' Pipeline Safety Cost Tracker (PSCT) 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, 2009. The filing was protested. As discussed below, the Commission accepts and suspends the proposed tariff revisions, to become effective April 1, 2009, subject to refund and condition, and further Commission action.

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[1] Twenty-Third Revised Sheet No. 5, Thirty-Fourth Revised Sheet No. 6 and Nineteenth Revised Sheet No. 10 to Equitrans' 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' 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' tariff, sets forth a PSCT tracking mechanism for the recovery of Qualifying Costs incurred by Equitrans under the PSIA. Equitrans states that as of March 31, 2009, it estimates a slight over-collection of the costs recovered through the PSCTs approved by the Commission effective April 1, 2007 and April 1, 2008. Equitrans states that during calendar year 2008, it incurred total costs related to the PSIA in the amount of $7.4 million, which, when adjusted for this projected over-collection and divided by transportation determinants for the period April 1, 2009 through March 31, 2010 of 55,984,025 Dth, yields a surcharge of $0.1329 per Dth. 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.

3. Equitrans recounts that as a result of its first PSCT filing on March 1, 2007, in Docket No. RP07-325-000, the Commission convened a technical conference (2007 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 2007 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 the 2007 Technical Conference.

4. Public notice of the filing was issued on March 4, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[3] Pursuant to Rule 214,[4] all timely filed 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. A protest was filed by the Independent Oil & Gas Association of West Virginia (IOGA).

5. 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 PSCT would result in a surcharge that equals nearly 70 percent of Equitrans' base interruptible transportation rate. IOGA acknowledges Equitrans has provided some detail of its proposed costs in the instant filing, but IOGA states it is unable to determine whether Equitrans' proposed surcharge complies with its tariff.

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[3] 18 C.F.R. § 154.210 (2008).

[4] 18 C.F.R. § 385.214 (2008).

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

6. IOGA questions whether the costs and investments included in the PSCT 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 it is unable to determine from the level of detail provided whether all of the claimed costs are related solely to compliance with the PSIA.

7. IOGA asserts that the need for further review is critical given what appear to be significant cost overruns in the Line H-152 pipeline replacement project. IOGA states that at the 2007 technical conference, Equitrans stated that the minimum projected cost of the Line H-152 replacement project was $7.8 million without inflation or failures. IOGA notes that in 2008 alone, Equitrans' capital expenditures were $10,405,058 on Line H-152 and $1,096,026 on Line H-156, which IOGA observes is an increase of more than 42 percent over the capital expenses through December 31, 2007.

8. IOGA asserts that by reviewing examples of Equitrans' 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 PSCT properly qualify under the Equitrans' tariff. Along similar lines, IOGA states that the Commission should assure that Equitrans is investing in routine maintenance that will help mitigate pipeline safety-related expenses in the future.

9. IOGA also questions whether the costs are properly classified under the Commission's Order on Accounting for Pipeline Assessment Costs as capital expenses or maintenance expenses.[6] IOGA notes that on Workpaper 8, Equitrans provides only limited detail of its proposed $11,501,084 of new capital investments, breaking the costs down into five general categories: Materials, Outside Services, Overheads, AFUDC, and Miscellaneous. IOGA recounts that in its reply to the Commission's request for more information last year in Docket No. RP08-223-000, Equitrans provided additional data detailing the costs. IOGA contends the Commission should require Equitrans to provide more detail in the instant filing, so that the Commission and the parties can determine the nature of the costs. IOGA contends that it is unclear whether all of these costs qualify as capital expenses that are includible in rate base or

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[6] IOGA Comments at 4, citing *Jurisdictional Public Utilities and Licensees, Natural Gas Cos., and Oil Pipeline Cos.*, 111 FERC ¶ 61,501 (2005) (Accounting Order).

as maintenance expenses under the Accounting Order.[7] IOGA states that the $7,314,730 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 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.

10. IOGA has raised issues that require further review. Therefore, the Commission accepts and suspends Equitrans' filing, to be effective April 1, 2009 subject to refund and condition, and subject to further explanation by Equitrans.

11. Within thirty days of the date of the order, Equitrans is directed to address the issues raised by IOGA, and to file additional explanations of its policies and its proposal. Specifically, Equitrans is directed to respond to the following questions:

- What are Equitrans' policies and procedures for evaluating pipeline safety expenditures to assure the proper determination of these costs as either operations and maintenance costs or capital investment? When describing these policies and procedures, refer to the applicable Commission accounting regulations.
- Explain the procedures and controls Equitrans has in place for distinguishing between, and accounting for, pipeline safety expenses and ordinary maintenance expenses.
- Provide detailed support and explanation for how the costs and investments included in the tracker are Qualifying Costs, as defined in GT&C section 38.1.

12. 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 conditions set forth in this order, and further review.

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[7] IOGA Comments at 4, citing Accounting Order, 111 FERC ¶ 61,501 at PP 21-28.

13. 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, 2009, subject to refund and conditions, and further review.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties
Public File

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[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).