

136 FERC ¶ 61,065  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 29, 2011

In Reply Refer To:  
Equitrans, L.P.  
Docket No. RP11-2239-000

Equitrans, L.P.  
625 Liberty Avenue  
Suite 1700  
Pittsburgh, PA

Attention: Thomas Yeh  
Manager, Rates and Commercial Analysis

Reference: Letter Order Accepting Negotiated Rate Agreement

1. On June 30, 2011, Equitrans, L.P. (Equitrans) filed a tariff record<sup>1</sup> pursuant to section 6.30 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff to revise a negotiated rate service agreement with EQT Energy LLC (EQT Energy). Equitrans requests waiver to allow the revised negotiated rate service agreement and the tariff record to become effective July 1, 2011. As discussed below, the Commission accepts the revised negotiated rate service agreement and proposed tariff record, effective July 1, 2011, as proposed.

2. Equitrans states that on October 25, 2010 in Docket No. RP10-1408-000 the Commission accepted tariff records submitted by Equitrans reflecting seven negotiated rate transactions, including one with EQT Energy.<sup>2</sup> Further, Equitrans states that on December 16, 2010 in Docket No. RP11-1543 the Commission accepted Equitrans' revised Exhibit A to EQT Energy's negotiated rate agreement reflecting higher firm

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<sup>1</sup> Section 3.2, EQT Energy, LLC-EQTR10349-516, 1.0. to Equitrans Tariff, FERC NGA Gas Tariff.

<sup>2</sup> *Equitrans L.P.*, Docket No. RP10-1408-000 (Oct. 25, 2010) (unpublished letter order).

transportation volumes and a corrected termination date to become effective December 1, 2010.<sup>3</sup> Equitrans states that, subsequently, it and EQT Energy entered into a revised Exhibit A reflecting higher firm transportation volumes to become effective on July 1, 2011. Equitrans states that all other terms and conditions of service, including the negotiated rate to be charged to EQT Energy, remain unchanged.

3. Equitrans' proposed tariff record consists of the revised negotiated rate FTS service agreement entered into with EQT Energy. Exhibit A to the agreement reflects higher firm transportation volumes, adds and removes delivery and receipt points, and changes the effective date to July 1, 2011. Exhibit C to the agreement, as before, provides the contract's negotiated rates and establishes a negotiated retainage rate and tracker and true-up mechanism for fuel and lost and unaccounted for gas. The agreement provides that when EQT Energy nominates off-system (i.e., on the Sunrise expansion project),<sup>4</sup> Equitrans will waive the Pipeline Safety Cost Tracker (PSCT)<sup>5</sup> surcharge and charge a fuel retention rate designed to recover the actual fuel and lost and unaccounted for gas, as described in more detail below. However, when EQT Energy nominates on Equitrans' existing system, it is subject to the PSCT surcharge and the fuel retainage rate in Equitrans' tariff (i.e., 3.72 percent).

4. Prior to the in-service date of the Sunrise project, when EQT Energy nominates off-system, Equitrans will retain 2 percent of EQT Energy's off-system nominated receipts volumes (estimated retainage rate). On a quarterly basis, Equitrans will calculate the actual fuel usage and will true-up the difference between the actual fuel usage and the estimated retainage rate. After the in-service date of the Sunrise project, EQT Energy will continue to pay the 2 percent estimated retainage rate on its off-system nominated receipts volumes, but the true-up will utilize the fuel usage of the entire Sunrise project, rather than the specific fuel usage of the service provided for EQT Energy.

5. Public notice of Equitrans' filing was issued on July 1, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>6</sup>

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<sup>3</sup> *Equitrans L.P.*, Docket No. RP11-1543-000 (Dec. 16, 2010) (unpublished letter order).

<sup>4</sup> On January 27, 2011, as amended on February 1, 2011, Equitrans filed an abbreviated certificate application in Docket No. CP11-68-000 to construct the Sunrise facilities. The Certificate was issued on July 21, 2011. *Equitrans Pipeline Co. L.P.*, 136 FERC ¶ 61,046 (2011).

<sup>5</sup> Equitrans' PSCT is governed by section 6.38 of the GT&C.

<sup>6</sup> 18 C.F.R. § 154.210 (2011).

Pursuant to Rule 214,<sup>7</sup> all timely filed motions to intervene and any unopposed 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 the proceeding or place additional burdens on existing parties. On July 11, 2011 Philadelphia Gas Works (PGW) filed a limited protest. On July 18, 2011, Equitrans filed an answer to PGW's protest. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), answers to protests are prohibited unless otherwise ordered by the decisional authority. We will accept Equitrans' answer because it provides information that will assist us in our decision-making process.

6. As discussed below, the Commission accepts the revised negotiated rate service agreement with EQT Energy and proposed tariff record, effective July 1, 2011, as proposed. The Commission finds that good cause exists to grant waiver of the notice period and permit the negotiated rate agreement and the proposed tariff record to become effective on July 1, 2011.

7. PGW states in its protest that it does not object to Equitrans' negotiated rate agreement with EQT Energy. Rather, PGW is concerned that Equitrans' filing contains no commitment that Equitrans absorb all PSCT and fuel retainage costs waived as a result of the negotiated rate contract with EQT. PGW states that its position is in accord with Commission precedent.<sup>8</sup> In reply, Equitrans states that the Commission should reject PGW's protest as untimely and inconsistent with Equitrans' tariff. Regarding the PSCT, Equitrans states that all issues regarding PSCT surcharges should be addressed in Equitrans next PSCT annual filing. Similarly, Equitrans states that issues with respect to recovery of fuel costs associated with negotiated rate agreements are more properly addressed in either Equitrans' annual fuel filing or a subsequent rate case. Moreover, Equitrans contends that Commission precedent (i.e., *Trailblazer*) supports reviewing these types of issues in an annual rate adjustment filing.

8. Both Equitrans' PSCT and its current fuel retainage percentages were established as part of an uncontested settlement (Settlement) filed December 9, 2005 and accepted by the Commission on April 5, 2006 in Docket No. RP05-164-000, *et al.*<sup>9</sup> Among other things, the Settlement authorized the elimination of Equitrans' fuel tracker mechanism and established a fixed, fuel retention rate of 3.72 percent for all transportation services

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<sup>7</sup> 18 C.F.R. § 385.214 (2011).

<sup>8</sup> PGW Protest at 3 (citing *Trailblazer Pipeline Co. LLC*, 136 FERC ¶ 61,007 (2011) (*Trailblazer*)).

<sup>9</sup> *Equitrans, L.P.*, 115 FERC ¶ 61,007 (2006).

for a period of up to 10 years following September 1, 2005. Section 3.2(h) of the Settlement also required that Equitrans impute the recovery of the 3.72 percent settled retainage percentage on any transmission services where fuel is waived, discounted or subject to a negotiated rate, except in limited circumstances.<sup>10</sup> Additionally, under the Settlement Equitrans is obligated to file an annual fuel report detailing, among other things, the amount of fuel and LAUF imputed as a result of discounts and/or negotiated rates. The Settlement also authorized Equitrans to file and place into effect the PSCT. Per its tariff, Equitrans is obligated to make an annual PSCT filing.

9. The Commission concludes that issues concerning how Equitrans' negotiated rate agreements should affect its recovery of PSCT and fuel costs are best addressed when Equitrans makes its annual fuel or PSCT filings pursuant to the mechanisms established by the Settlement and Equitrans' tariff, or in any other section 4 filing. At that time, all interested parties will have an opportunity to state their positions as to whether Equitrans' proposal is consistent with the terms of the Settlement and raise any other issue concerning Equitrans' recovery of PSCT and fuel retainage costs.

10. Therefore, the Commission accepts Equitrans' revised tariff record to be effective July 1, 2011, as proposed.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>10</sup> The imputation requirement does not apply to interruptible services or short-term firm services satisfying certain criteria or the discount provided in a certain contract Equitrans entered into with U.S. Steel Corporation.