

139 FERC ¶ 61,164  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
and Cheryl A. LaFleur.

Equitrans, LP

Docket No. RP12-708-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS SUBJECT  
TO CONDITIONS AND ESTABLISHING A TECHNICAL CONFERENCE

(Issued May 31, 2012)

1. On May 1, 2012, Equitrans, LP, (Equitrans) filed revised tariff records<sup>1</sup> to modify penalties related to its Appalachian Gathering Service (AGS) provided under Rate Schedule AGS. Specifically, Equitrans states that its proposal will address its operational needs during times of curtailment or Operational Flow Orders (OFOs). Equitrans proposes the instant tariff records to become effective June 1, 2012. For the reasons discussed below, the Commission accepts and suspends the instant tariff records, to become effective November 1, 2012, or an earlier date set by subsequent Commission order, subject to the outcome of a technical conference.

**Details of Filing**

2. Service under Rate Schedule AGS is an interruptible service provided on Equitrans' low pressure gathering system. Section 6.9 of Equitrans' General Terms and Conditions of Service (GT&C) permits it to curtail service, if it is unable to receive or deliver the total requirements of gas which it is otherwise obligated to receive or deliver. Section 6.11 of Equitrans' GT&C governs its issuance of OFOs. Section 2.6 of Rate Schedule AGS specifies that AGS service is subject to OFOs issued pursuant to GT&C section 6.11, but section 2.6 makes no reference to curtailment orders issued pursuant to GT&C section 6.9. Section 6.9(2) of the GT&C lists the order in which Equitrans will curtail its various scheduled services, but does not make any reference to Rate Schedule AGS service. By contrast, sections 6.11(5)(b)(1) and (c)(1) and (3) of Equitrans' GT&C expressly permit Equitrans to issue OFOs directing shippers under Rate Schedule AGS

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<sup>1</sup> Equitrans, L.P., FERC NGA Gas Tariff, Section 5.9, Rate Schedule AGS, 1.0.0; Section 6.9, Curtailment of Service, 2.0.0; Section 6.11, Operational Flow Orders, 2.0.0.

(and various other rate schedules) to increase or decrease receipts or deliveries for various specified purposes. GT&C sections 6.9(7) and 6.11(6) provide that shippers who violate a curtailment order or an OFO are subject to a penalty of \$25 per Dth times the quantity of gas by which the shipper deviated from the order.

3. Equitrans proposes to modify section 2.6 of Rate Schedule AGS to specify that AGS service is subject to curtailment orders issued pursuant to GT&C section 6.9, as well as OFOs issued pursuant to GT&C section 6.11. Equitrans also proposes to modify section 6.9(2) of its GT&C to include service under Rate Schedule AGS in its list of the order in which it will curtail its scheduled services. Specifically, Equitrans proposes to include Rate Schedule AGS among the interruptible services that will be curtailed immediately after service scheduled by interruptible and firm customers to resolve prior imbalances in scheduled receipts or deliveries. In addition, Equitrans proposes to revise section 6.11(5)(c)(2) concerning OFOs to add Rate Schedule AGS shippers to the list of shippers who may be ordered to decrease deliveries if delivery pressure at one or more delivery points drops below reasonable operating limits.

4. Finally, Equitrans proposes to revise section 2.6 of Rate Schedule AGS to authorize it to retain gas placed upon its system by a Rate Schedule AGS shipper in violation of a curtailment order or OFO. Proposed section 2.6 provides that Equitrans will credit retained volumes to customers complying with the curtailment order or OFO during the month in question. Equitrans also proposes to revise sections 6.9(7) and 6.11(6) of its GT&C to exempt Rate Schedule AGS shippers from the \$25/Dth penalty provided in those sections for violations of curtailment orders and OFOs.

5. Equitrans asserts that its proposed tariff revisions will help ensure reliability on its system when the system is under a curtailment or OFO. Equitrans states that its gathering system has over 2,400 receipt points and 500 delivery points that flow low volumes of gas, Equitrans states that historically it has issued curtailment orders for maintenance of compressor stations or pipeline construction. When a compressor unit is shut down for maintenance, it is necessary to reduce natural gas receipt volumes to avoid a pressure increase on the gathering system upstream of the compressor station. Equitrans asserts that, when producers violate such curtailment or OFO orders, the pressure rises on its system which leads to increased lost and unaccounted for fuel as well as leaks. Equitrans states that its proposed penalty will encourage the shutdown of receipt volumes during periods when curtailment orders or OFOs are in effect.

### **Public Notice and Interventions**

6. Public notice of Equitrans' Filing was issued on May 1, 2012. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2011)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2011), 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 this proceeding or place additional burdens on existing parties. A protest was filed by the Independent Oil and Gas Association of West Virginia (IOGA).

7. IOGA requests that the Commission suspend the tariff records and require Equitrans to supplement its filing with more information. Generally, IOGA argues that Equitrans has failed to meet its burden of proof to show that its proposed changes to its penalty provisions related to service under Rate Schedule AGS are just and reasonable. However, IOGA also states that its concerns are related to the implementation of a penalty, not the general concept of a tariff curtailment provision under Rate Schedule AGS.

8. Specifically, IOGA asserts that: (1) Equitrans controls all of the metering equipment and has the ability to control flows into the system; (2) Equitrans has no legal or contractual right to dictate to the producers the quantity of flows under Rate Schedule AGS; (3) Equitrans is unable to manage the gas flowing through its meters; (4) market conditions and the unique situation of the producer's wells do not support the installation of equipment that could provide daily measurement data; and (5) Equitrans' operational model does not facilitate producers being able to accommodate an OFO or curtailment order.

9. On May 17, 2012, Equitrans filed an answer to the protest.<sup>2</sup> In general, Equitrans states that it has the right to curtail, interrupt, or discontinue service on its system for force majeure, or when necessary to meet operating requirements or when conditions threaten the operation of the pipeline. Equitrans also states that its customers may install their own check meters, and that Equitrans' ownership of the measuring facilities does not allow a customer to forego compliance with curtailment orders and OFOs. Equitrans also mentions that the responsibility is on the customer to inform its suppliers as to curtailments or other interruptions. Finally, Equitrans states that the tariff responsibility is on Equitrans' customers, not the producers, and the contracts between IOGA's members and Equitrans' customers are not affected by Equitrans' proposed tariff changes.

### **Discussion**

10. The Commission has reviewed Equitrans' Filing, the protest, and Equitrans' answer. Based on our review of the pleadings, we cannot find that Equitrans has shown its proposed tariff records to be just and reasonable. Accordingly, the Commission will

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<sup>2</sup> Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2)(2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Equitrans' answer because it provided us information that assisted us in our decision-making process.

accept the tariff records for filing, and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order. Further, as a result of our review of the pleadings, we also find that Equitrans' proposed changes to its penalty provisions related to Rate Schedule AGS raise operational and technical issues that will best be addressed at a technical conference where staff and all parties will have an opportunity to further discuss their concerns and Equitrans' justifications for its proposal. Accordingly, Commission staff will convene a technical conference to further discuss the issues raised in this proceeding. At the technical conference, Equitrans must be prepared to address all the issues raised by protesters in their pleadings.

### **Suspension**

11. 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 maximum period to be effective November 1, 2012, or an earlier date set by subsequent Commission order, subject to the conditions in this order.

12. The Commission's policy regarding tariff filing suspensions is that such 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 that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). 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. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). The Commission finds that such circumstances do not exist here. Therefore, the Commission will exercise its discretion and suspend the proposed tariff sheets for the maximum period and permit them to become effective November 1, 2012, subject to the outcome of the technical conference established herein and further orders of the Commission.

### **The Commission orders:**

(A) The tariff sheets listed in footnote no. 1 are accepted and suspended to become effective November 1, 2012, or an earlier date set by a subsequent Commission order, and subject to the outcome of the technical conference established herein.

(B) The Commission's staff is directed to convene a technical conference to address Equitrans' proposal and report the results of the conference to the Commission within 120 days of the date of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.