

110 FERC ¶61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Equitrans, L.P.

Docket No. RP05-164-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO
REFUND AND ESTABLISHING HEARING AND TECHNICAL CONFERENCE
PROCEDURES

(Issued February 28, 2005)

1. On January 28, 2005, Equitrans, L.P. (Equitrans) filed, under section 4 of the Natural Gas Act (NGA), tariff sheets¹ to establish gathering rates for existing and new gathering services. Equitrans also filed to replace Rate Schedules IGS (Interruptible Gathering Service) and APS (Appalachian Pooling Service) with new Rate Schedule AGS (Appalachian Gathering Service). Equitrans requests a March 1, 2005 effective date.

2. The Commission finds that the replacement of Rate Schedule APS with Rate Schedule AGS may be inconsistent with the Commission's regulations and policies, and sets this proposal for technical conference. In addition, the Commission finds the proposed rates may not be just and reasonable. Therefore, the Commission accepts and suspends the proposed tariff sheets, to be effective July 1, 2005, upon motion by Equitrans, subject to refund, and to the outcome of a hearing and technical conference established herein.

Background

3. Equitrans is a limited partnership organized and existing under the laws of Pennsylvania and authorized to do business in West Virginia and Pennsylvania. Equitrans is a natural gas company, as defined in the NGA, engaged in the business of gathering, storing and transporting natural gas in interstate commerce subject to the jurisdiction of the Commission.

¹ See Appendix for the list of tariff sheets.

4. After restructuring its system pursuant to Order No. 636, Equitrans ended its merchant role and its gathering facilities became used primarily to provide open-access gathering services. Equitrans also began the process of unbundling its rates for gathering service from its rates for interstate open-access transportation. Under the Stipulation and Agreement approved in Docket No. RP97-346-000, *et al.*, Equitrans agreed to fully unbundle its rates for gathering service by a date certain.²

5. Equitrans subsequently acquired assets formerly owned by Carnegie Interstate Pipeline Company (CIPCO).³ Equitrans subsequently determined that some of its remaining pipeline facilities, including some of the newly-acquired CIPCO facilities, were performing a gathering function. In Docket No. CP04-76-000, Equitrans requested permission to refunctionalize them from transmission and storage to gathering. In an order issued November 23, 2004, the Commission authorized the refunctionalization.⁴

6. At the same time Equitrans filed its request to refunctionalize certain facilities as gathering, Equitrans filed a general NGA section 4 rate case in Docket No. RP04-203-000 in which it proposed, among other things, to revise its transmission and gathering rates to reflect the foregoing refunctionalization. In another order issued November 23, 2004, the Commission rejected the gathering rates as the refunctionalization determination did not occur during the suspension period.⁵ However, after the Commission did approve the refunctionalization, Equitrans then filed a limited NGA section 4 rate case in Docket No. RP05-105-000 to reflect the permitted refunctionalization of assets, including revised gathering rates. Equitrans' proposed gathering rates were based on the zone in which the gathering services are performed. In an order issued December 30, 2004, the Commission accepted the gathering rates

² *Equitrans, L.P.*, 87 FERC ¶ 61,116 (1999).

³ CIPCO merged into Equitrans on January 1, 2004, pursuant to the Commission's order in *Equitrans, L.P.*, 104 FERC ¶ 61,008 (2003). Gathering services previously provided by CIPCO are offered by Equitrans under its gathering rates for service in the CIPCO District.

⁴ *Equitrans, L.P.*, 109 FERC ¶ 61,209 (2004).

⁵ *Equitrans, L.P.*, 109 FERC ¶ 61,214 (2004).

effective December 1, 2004, subject to refund and subject to the outcome of a hearing established by that order.⁶ That order also consolidated the issues raised in Docket No. RP05-105-000 with the hearing in Docket No. RP04-203-000.

7. At about the same time as the CIPCO acquisition, Equitrans sought and obtained authority to abandon by transfer to its affiliate, Equitable Field Services, LLC (EFS), certificated and uncertificated natural gas pipeline facilities consisting of approximately 1,308 miles of low pressure, predominantly small diameter pipeline, thirteen field compressor units with a total of 4,040 horsepower of compression, meters and various appurtenant facilities used to gather gas from numerous wells in West Virginia and Pennsylvania. In an order issued February 14, 2002, Equitrans was permitted to abandon the assets at depreciated book cost, and the Commission found that, upon acquisition by EFS, the facilities would be gathering facilities exempt from the Commission's jurisdiction under NGA section 1(b).⁷

Proposal

8. Equitrans states that effective January 1, 2005, it acquired non-jurisdictional West Virginia gathering facilities from EFS. Equitrans states that it reacquired West Virginia gathering facilities Equitrans previously had sold to EFS.⁸ In addition, Equitrans states that it acquired from EFS West Virginia gathering facilities that EFS had acquired from CNG Transmission Corporation, referred to as the Hastings facilities.⁹ Collectively, Equitrans states that the gathering facilities now acquired from EFS amount to approximately 1,214 miles of low pressure pipeline ranging from 1- to 30-inches in diameter, and 1,760 horsepower of compression.¹⁰

⁶ *Equitrans, L.P.*, 109 FERC ¶ 61,384 (2004); *reh'g pending*. The Commission also consolidated Docket No. RP05-105-000 with the ongoing hearing in Docket No. RP04-203-000.

⁷ *Equitrans, L.P.*, 98 FERC ¶ 61,160 (2002). The individual assets are described in the Commission's order.

⁸ *Id.*

⁹ *CNG Transmission Corp.*, 74 FERC ¶ 61,217 (1996).

¹⁰ Equitrans' Exhibit No. ELP-1, pp. 8-9.

9. Equitrans states that the reason for the acquisition of the gathering facilities is that it has encountered administrative and operational inefficiencies attempting to operate its gathering assets in tandem with its affiliate. Further, Equitrans continues, with the latest refunctionalization in Docket No. CP04-76-000, it found itself operating a “bridge” service between EFS and Equitrans’ NGA jurisdictional services. Equitrans states its customers would be better served having all the gathering facilities owned and operated by a single business entity.

10. Equitrans claims a total gathering cost of service of approximately \$14,829,000. This gathering cost of service reflects a base period ending September 30, 2004, as adjusted. This cost of service compares to Equitrans’ total gathering cost of service of approximately \$10,040,000 underlying the currently effective gathering rates as proposed in Docket No. RP05-105-000.¹¹ Equitrans states that the gathering cost of service reflects the same return, depreciation and other cost principles proposed and supported in Docket No. RP04-203-000. However, Equitrans continues, there are two exceptions. The underlying filing uses the “KN methodology” to allocate administrative and general overhead costs, and gross operating plant to allocate general and intangible plant. In the instant proceeding, Equitrans asserts that these allocation factors would result in a disproportionate share of administrative and general costs and general and intangible plant being allocated to gathering. Equitrans proposes to allocate no more of these costs and plant to gathering services than what it proposed in Docket No. RP04-203-000.

11. Equitrans proposes, with one exception, to create a single postage stamp rate for all its gathering facilities and services. The postage stamp rate would be a volumetric usage rate of \$0.6600 per Dth, plus 11.85% fuel, lost and unaccounted for gas retention. Equitrans notes that the retention rate is subject to an annual redetermination as proposed in Docket No. RP04-203-000 and which is currently in effect. Equitrans also states that its Crooked Creek gathering facilities are physically isolated from the rest of its gathering system and are located in Pennsylvania. Therefore, it proposes to rename its existing Equitrans gathering zone’s Pennsylvania rate as the Crooked Creek zone, and retain the currently effective gathering and retention rates for service over the Crooked Creek facilities.

12. Equitrans also proposes a new Rate Schedule AGS. Rate Schedule AGS, Equitrans states, will replace Rate Schedule IGS which is currently only applicable to the CIPCO District. Rate Schedule AGS is a customer-specific interruptible gathering service. Customers must nominate to and from a virtual pooling point. With certain exceptions, Rate Schedule AGS gathering transportation service must be nominated into another of Equitrans’ open access transportation services. Two pool-to-pool transfers are permitted per month. Further, continues Equitrans, Rate Schedule AGS will also

¹¹ Equitrans’ Docket No. RP05-105-000, sum of original Equitrans and CIPCO District gathering function costs in Statement A.

incorporate and replace Rate Schedule APS. Finally, Equitrans states that it proposes numerous other conforming changes elsewhere in its tariff to remove gathering service under existing rate schedules and standardize the references to Rate Schedule AGS. These changes include the elimination of Rate Schedule IGS and removing from each open access transportation rate schedule the gathering service component.

13. Equitrans requests a March 1, 2005 effective date. However, Equitrans reserved its right to file a motion to place the tariff sheets into effect at a later date should the Commission suspend the effective date of the proposed tariff sheets for any period.

Notice, Interventions, and Protests

14. Notice of Equitrans' filing was issued on February 1, 2005. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), 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. Protests were filed by Independent Oil and Gas Association of West Virginia (IOGA), the Peoples Natural Gas Company d/b/a Dominion Peoples (Dominion Peoples), KeySpan Delivery Companies (KeySpan), Columbia Gas of Pennsylvania, Inc. (CPA) and the Pennsylvania Office of Consumer Advocate (Pa OCA)(collectively Protesters).¹² Philadelphia Gas Works (PGW) asks for a clarification. The protests and request for clarification are addressed below.¹³

¹² The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York, KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island, Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc. and Essex Gas Company, filed to intervene both jointly and severally. KeySpan and the Pa OCA filed late protests. On February 16, 2005, Dominion Peoples filed to amend its protest. The late protests and amendment are accepted as they may aid in the disposition of the issues raised in the instant proceeding.

¹³ Equitrans filed an answer to the various protests. While section 385.231 (b) of the Commission's regulations does not permit answers to protests, we waive that provision and accept the answer as it may aid in the disposition of the issues raised by its filing.

Discussion

15. A number of parties requested summary rejection of the rate filing or summary disposition of various rate issues, or, in the alternative, that the rate issues be set for hearing. The Commission finds that all issues concerning rate derivation and cost-of-service, including Equitrans' proposed cost of service, cost allocation among services, billing determinants and adjustments thereto, retention levels and other issues, should be explored at a hearing established by this order. Further, the Commission finds that the issues raised by the proposed Rate Schedule AGS, and the deletion of Rate Schedules IGS and APS should be set for technical conference.

Natural Gas Act Jurisdiction

16. PGW requests clarification whether Equitrans requires NGA section 7 certificate authority to acquire EFS' gathering assets. IOGA recognizes that the purchase and sale of gathering facilities is not subject to NGA section 7. However, IOGA argues that the Commission should review Equitrans' acquisition under section 7 to determine whether the acquisition is in the public interest. IOGA argues that the function of facilities in Appalachia is less than clear, and certain of the acquired facilities may perform a transmission function. Thus, it asserts, a review under NGA section 7 would enable the Commission to ensure the facts have not changed.¹⁴

17. The Commission does not have jurisdiction over gathering facilities because of the exemption in section 1(b) of the NGA. Therefore, Equitrans is not required to obtain a certificate of public convenience and necessity pursuant to NGA section 7 from the Commission for the acquisition of non-jurisdictional gathering assets. As in *National Fuel*, the Commission will review previous findings on jurisdiction for changed circumstances. In the case of *National Fuel*, a specific contract and service was brought to the Commission's attention, and the Commission acted in accordance with that fact. IOGA, whose members are intimately familiar with EFS' and Equitrans' customers and services on their gathering facilities, has identified nothing that would support a re-examination of the jurisdictional status of these assets.

18. KeySpan, Dominion Peoples and Pa OCA question the legality of establishing gathering rates for services on the newly acquired gathering facilities. Key Span and Dominion Peoples acknowledge that the Commission has jurisdiction to set unbundled gathering rates for gathering services performed by interstate pipelines in connection with their own interstate transportation services.¹⁵ However, these protests continue, it is

¹⁴ Citing *National Fuel Distribution Corporation*, 93 FERC ¶ 61,276 (2000); *order on reh'g*, 94 FERC ¶ 61,176 (2001) (*National Fuel*).

¹⁵ Citing *Northern Natural Gas Co. v. FERC*, 929 F.2d 1261 (8th Cir. 1991) (*Northern v. FERC*).

unclear whether the Commission should exercise regulatory authority over gathering services on facilities that were recently acquired. IOGA argues that service over the Hastings gathering facilities and possibly the Crooked Creek facilities are not to any interconnection with any Equitrans transmission line. As such, IOGA argues, these gathering services should not be regulated by the Commission as they are not in connection with any Equitrans transmission services. IOGA argues that Equitrans should not be permitted to forum shop. IOGA states there is no issue of regulatory gap should the Commission decline jurisdiction. IOGA notes that the West Virginia Public Service Commission is an active regulator of gathering rates within the state. IOGA and Dominion Peoples request that the Commission reject Equitrans' filing.

19. The fact that the facilities have been reacquired from a non-jurisdictional, affiliated gatherer is irrelevant to our jurisdiction over the unbundled gathering rates charged by a jurisdictional interstate pipeline. Therefore, consistent with *Northern v. FERC*, the rates, terms and conditions for gathering services Equitrans performs in connection with its NGA jurisdictional open access interstate transportation service are subject to the Commission's jurisdiction under sections 4 and 5 of the NGA effective January 1, 2005. However, the protestors raise the issue as to whether some gathering services are actually provided in connection with interstate transportation, because they contend that these gathering services may be over facilities that are not directly attached to the Equitrans system and/or the gas flowing over these gathering facilities may be delivered to a different pipeline. The Commission directs the ALJ to examine the gathering services provided over these Equitrans' gathering facilities to determine which services and facilities may be treated as providing service "in connection with the transportation . . . of natural gas subject to the jurisdiction of the Commission" under NGA sections 4 and 5, and to make recommendations as to gathering service tariff conditions and rates in accordance with those findings. Gathering services in connection with interstate transportation are subject to Equitrans' currently effective West Virginia Gathering rate.¹⁶ This rate applies to the services unless and until superseded by new rates. The Commission will review the proposed gathering services and rates consistent with NGA section 4, and our regulations and policies thereunder.

Rate Filing Issues

20. IOGA and Pa OCA argue that Equitrans' filing is inconsistent with the Commission's limited NGA section 4 filing requirements. IOGA notes that Equitrans only proposes to change gathering rates, and not storage or transportation rates. The storage and transportation rates are those currently in effect, subject to refund, as proposed in Docket No. RP04-203-000. IOGA and Dominion Peoples believe Equitrans'

¹⁶ See Fourteenth Revised Sheet No. 6 to Equitrans FERC Gas Tariff, Original Volume No. 1 ("Applicable to when Customer's transportation gas is received or delivered at any point on Equitrans' gathering facilities (other than CIPCO District.)").

filing is contrary to Commission policy. IOGA argues that if Equitrans wants to roll incremental facilities into the gathering cost of service and eliminate the CIPCO District zone, it should do so in a full section 4 filing. KeySpan and Dominion Peoples express concern that Equitrans' proposal could affect its storage and transportation rates, but Equitrans made no such proposal.

21. All the Protesters take issue with Equitrans' proposals not to allocate administrative and general costs and intangible plant utilizing traditional allocation factors. Dominion Peoples, CPA, IOGA and Pa OCA question the acquisition cost of the gathering facilities. CPA and IOGA question whether customers have already paid for the facilities when they paid stranded costs as provided for in Docket No. RP97-346.¹⁷ IOGA argues that the value of the acquired assets should be written down. IOGA argues that Equitrans' filing is deficient both from the perspective of the requirements of a general rate case, and with regards to specifics of Equitrans' gathering rate proposals. As an example, IOGA believes Equitrans' fuel, lost and unaccounted for gas retention rate proposal is unsupported. IOGA, citing what it believes to be excessively high lost gas, questions the prudence of Equitrans' management of its gathering facilities. IOGA raises a host of cost of service issues, including pensions, post retirement benefits other than pensions, fringe benefits, rate case expenses, rate of return, depreciation, pipeline safety improvement expenses, taxes, operations and net plant.

22. In addition, IOGA, Dominion Peoples and KeySpan disagree with Equitrans' proposed gathering rate design. IOGA argues that Equitrans has not shown that rolling the West Virginia gathering facilities into one rate outweigh the burdens placed on the ratepayers.¹⁸ KeySpan and Dominion Peoples also expressed similar concerns. Dominion Peoples questions whether Equitrans' gathering rate design proposal unduly favors its affiliates and unduly discriminates against CIPCO District customers. IOGA believes that there are good operational, cost and service reasons to incrementally price some gathering facilities' services. Dominion Peoples takes issue with the adverse impact Equitrans' acquisition of CIPCO's and EFS' facilities has had on its rates. Dominion Peoples believes the evolution of rates since these acquisitions are contrary to expectations Equitrans provided the Commission.

¹⁷ CPA asserts that the settlement provided for recovery of \$14,716,027 in stranded gathering costs; and IOGA states that Equitrans collected approximately \$19 million in revenue to recover stranded gathering costs.

¹⁸ *Citing Pricing Policy for New and Existing Facilities Constructed by Interstate Pipelines*, 71 FERC ¶ 61,241 (1995). The Commission notes that our pricing policy for proposed pipeline expansions currently is as provided in *Certification of New Interstate Natural Gas Pipeline Facilities*; 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*; 90 FERC ¶ 61,128 (2000), *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000) .

23. The protestors have raised numerous cost of service and rate design issues that are best resolved in a hearing. The Commission is especially concerned with Equitrans' acquisition of non-jurisdictional gathering assets from its affiliate. Among other things, the valuation of these assets and whether cross-subsidization will occur should be examined at the hearing. During the Order No. 636 restructuring of the interstate pipeline industry, the Commission spent considerable time and effort to unbundle gathering from transportation services and limit cross subsidization among services in Appalachia.¹⁹ In each of the cited instances, stranded cost treatment was permitted for gathering assets in possession of the pipelines at the time of restructuring. In this instance, Equitrans has acquired significant new non-jurisdictional facilities. If the gathering assets are found to have a value less than that proposed by Equitrans, there is no presumption of stranded cost treatment for the difference.²⁰ No pipeline should expect jurisdictional rate payers to subsidize newly acquired non-jurisdictional assets that are not revenue self-sufficient. The Commission's concern with cross-subsidization continues.²¹ Equitrans has proposed to allocate common costs and intangible plant utilizing different methods than are currently the practice. Equitrans bears the burden to prove that its proposed rates and rate

¹⁹ See *National Fuel Gas Supply Corp.*, 74 FERC ¶ 61,165 (1996); *CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998); and *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,044 (1997) and their related procedural histories; see also *Equitrans, Inc.*, 64 FERC ¶ 61,374 at 63,600 (1993) and *Equitrans, L.P.*, 87 FERC ¶ 61,116 (1999).

²⁰ In Order No. 636-B, *Pipeline Service Obligations, and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations*, 61 FERC ¶ 61,272 at 62,041 (1992), the Commission stated:

The Commission will consider issues concerning the eligibility for recovery of any claimed stranded costs in the proceedings where pipelines seek to recover such costs. However, once a pipeline's costs have been determined eligible for recovery as stranded costs, the pipeline may not subsequently seek recovery of those costs as an element of its cost of service in any future rate proceeding without recognition of the costs it has recovered as stranded costs.

The Commission notes that the gathering facilities that Equitrans reacquired from EFS may have already been the subject of stranded cost recovery (*Equitrans, L.P.*, 87 FERC ¶ 61,116 (1999)); and the acquired Hastings facilities may have been the subject of stranded cost recovery on the CNG system (*CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998)). The effects of these earlier actions should also be examined at the hearing.

²¹ *Equitrans, L.P.*, 106 FERC ¶ 61,340 at P 16 (2004).

methodology are just and reasonable, including the burden to prove that cross-subsidization will not occur. Thus, all issues raised by the proposal should be thoroughly examined in the hearing.

Rate Schedules AGS, APS and IGS

24. IOGA protests the following aspects of Equitrans' proposed Rate Schedule AGS: (1) IOGA states that Equitrans reserves the right to add or delete pooling points at any time by posting the change on its web site rather than a change to the tariff. IOGA believes such changes require a tariff filing; (2) IOGA states that Rate Schedule AGS limits gathering shippers from nominating point-to-point on the gathering system by requiring nominations to pooling points. Further, IOGA continues, in some instances where gathering deliveries are made directly to other pipeline facilities, the deliveries must now be nominated and delivered into Equitrans' transportation services. IOGA asserts that this requirement is an exercise of market power, and is unduly discriminatory and anti-competitive. Gathering shippers, IOGA continues, should be permitted to continue to nominate to other pipeline gathering interconnection points; and, (3) IOGA states that Rate Schedule AGS restricts firm pool receipts to secondary treatment. IOGA asserts that this priority level is inconsistent with the Commission's findings in Order No. 637.

25. The Commission finds that the issues raised by the proposed Rate Schedule AGS and the proposed deletion of Rate Schedules IGS and APS should be set for technical conference. Equitrans currently performs gathering service as a separate, unbundled service under Rate Schedule IGS or under its open access transportation rate schedules. Rate Schedule APS is a pooling service, not a gathering service. Rate Schedule APS pooling service is a separate service that permits a pool operator to operate a pool. Pools, as specified at Rate Schedule APS, section 2.1,²² are an accounting service that entails the aggregation of gas from receipt points within the pool for downstream transportation. As an aggregation service, many transportation customers may join a pool, and the pool operator provides the accounting services that match supply to market, manage imbalances and provide joint nomination services. However, proposed Rate Schedule AGS would eliminate the role of pool operators aggregating multiple transportation customers' supply, and replace it with single transportation customer "pools," aggregating only their supplies. These single customer pools appear to be no more than

²² Equitrans' FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 72.

nomination points. There does not appear to be any ability to aggregate and balance supplies and markets among several transportation customers under proposed Rate Schedule AGS.

26. Pipelines are not permitted to include in their tariffs provisions that inhibit the creation of market centers.²³ In furtherance of this goal, Order No. 636 required that pipelines not inhibit the development of pools on their systems.²⁴ Equitrans' tariff was initially found to be in compliance with Order No. 636.²⁵ Subsequently, at the request of customers for pooling service, Equitrans proposed Rate Schedule APS.²⁶ Thereafter, the Commission found in Order No. 587 that all interstate pipelines should permit pooling services on their systems.²⁷ The Commission found that Equitrans' tariff did not inhibit the creation of market centers.²⁸ But gathering pooling service appears to have been the only pooling service requested on Equitrans' system. Eliminating the Rate Schedule APS pooling would put Equitrans' tariff out of compliance with Order Nos. 636 and 587, as the only requested pooling service would no longer be available.

27. Further, in Equitrans' Order No. 637 compliance proceeding, the Commission found that Rate Schedule APS provided imbalance management services.²⁹ Eliminating Rate Schedule APS pooling would appear to significantly reduce the imbalance management services available to Equitrans' customers.

²³ 18 C.F.R. § 284.7(b)(3) (2004).

²⁴ *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, *FERC Statutes and Regulations Preambles 1991-1996*, ¶ 30,939 at 30,428 (1992); *order on reh'g*, Order No. 636-A, *FERC Statutes and Regulations Preambles 1991-1996*, at 30,544 (1992).

²⁵ *Equitrans, L.P.*, 65 FERC ¶ 61,132 at 61,665 (1993).

²⁶ *Equitrans, L.P.*, 71 FERC ¶ 61,258 (1995).

²⁷ *Standards For Business Practices of Interstate Natural Gas Pipelines*, Order No. 587, *FERC Stats. & Regs., Regulations Preambles (1996-2000)* ¶ 31,038 (1996); *order denying reh'g*, Order No. 587-A, 77 FERC ¶ 61,061 (1996). *See also Equitrans, L.P.*, 79 FERC ¶ 61,171 at 61,799 (1997); *National Fuel Gas Supply Corp.*, 78 FERC ¶ 61,147 at 61,618-619 (1997).

²⁸ *Equitrans, L.P.*, 79 FERC ¶ 61,171 at 61,799 (1997).

²⁹ *Equitrans, L.P.*, 99 FERC ¶ 61,210 at P 47, 54 (2002).

28. Accordingly, a technical conference is established herein to investigate Equitrans' proposal's compliance with Order Nos. 637 and 587, as well as any other non-rate issues the parties raise with Rate Schedule AGS.

Suspension and Effective Date

29. KeySpan and (in the alternative to rejection) Dominion Peoples and IOGA request that the Commission impose the maximum suspension period of five months. All the parties note that the cumulative impact of Equitrans' proposal will result in a significant increase in their revenue responsibilities. IOGA also argues that the Commission traditionally provides for a full five month suspension where its preliminary review leads the Commission to conclude that the rates are unjust and unreasonable. IOGA also states that Equitrans has prepared itself for a full five month suspension. IOGA states that, if the Commission grants a shortened suspension period, it should cut off Equitrans' ability to adjust its rates for known and measurable changes and to adjust rate base for facilities subject to certificate applications that remain unresolved, including Docket No. CP04-76-000. IOGA further contends that the subject to refund condition cannot adequately protect producers because they receive a wellhead price based on the cost of transportation and gathering.

30. Based upon 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 listed in the Appendix for filing, suspend their effectiveness for the period set forth below, and permit them to become effective, subject to the conditions set forth in this order.

31. The Commission's policy regarding rate suspensions is that rate 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.³⁰ 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.³¹ Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to suspend the accepted tariff sheets listed in the Appendix for the maximum period and permit the

³⁰ *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

³¹ *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

proposed tariff sheets to take effect July 1, 2005, upon motion by Equitrans,³² subject to refund and subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The proposed tariff sheets listed in the Appendix are accepted and suspended, effective July 1, 2005, upon motion by Equitrans on or before that date, subject to the refund and to the outcome of the technical conference and hearing, as described herein.

(B) Pursuant to the authority of the NGA, particularly sections 4, 5, 8 and 15 thereof, a public hearing will be held in Docket No. RP05-164-000 concerning the lawfulness of Equitrans' proposal.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304, must convene a prehearing conference in this proceeding to be held in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426. The Chief Administrative Law Judge may use his discretion in managing the several Equitrans' hearing proceedings. The prehearing conference shall be held for the purpose of establishment of a procedural schedule. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Commission's rules of practice and procedure.

³² Pursuant to Equitrans' reservation of its right to file a motion to place the tariff sheets into effect if its proposed rates are suspended, if it decides to place the sheets into effect at the end of the suspension period, it must file a motion pursuant to section 154.206(b) of the Commission's regulations. 18 C.F.R § 154.206(b) (2004).

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(D) A technical conference is established to investigate Equitrans' proposed Rate Schedule AGS and its proposed deletion of Rate Schedules APS and IGS and related gathering tariff language in Equitrans' open access transportation rate schedules. The Commission staff is directed to report the results of the technical conference to the Commission within 120 days of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

Appendix
List of Tariff Sheets Accepted and Suspended, effective July 1, 2005

Equitrans, L. P.: Original Volume No. 1

Fourth Revised Sheet No. 1
Fifteenth Revised Sheet No. 6
Seventh Revised Sheet No. 11
Sixth Revised Sheet No. 22
Sixth Revised Sheet No. 28
Sixth Revised Sheet No. 31
First Revised Sheet No. 71A
First Revised Sheet No. 71B
First Revised Sheet No. 71C
First Revised Sheet No. 72
Second Revised Sheet No. 73
Third Revised Sheet No. 74
Third Revised Sheet No. 75
First Revised Sheet No. 76
Second Revised Sheet No. 77
Second Revised Sheet No. 202
Second Revised Sheet No. 204
Second Revised Sheet No. 223

Second Revised Sheet No. 224
Second Revised Sheet No. 247
Third Revised Sheet No. 267
Third Revised Sheet No. 270
Second Revised Sheet No. 289
Fourth Revised Sheet No. 302
First Revised Sheet No. 421A
First Revised Sheet No. 421B
First Revised Sheet No. 421C
First Revised Sheet No. 421D
First Revised Sheet No. 421E
First Revised Sheet No. 421F
Second Revised Sheet No. 422
First Revised Sheet No. 423
Second Revised Sheet No. 424
First Revised Sheet No. 503
First Revised Sheet No. 504
Second Revised Sheet No. 505