

134 FERC ¶ 61,250
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 30, 2011

In Reply Refer To:
Equitrans, L.P.
Docket No. RP11-1859-000

Equitrans, L.P.
625 Liberty Avenue, Suite 1700
Pittsburgh, PA 15212

Attention: Paul W. Diehl, Senior Attorney

Reference: Pipeline Safety Cost Tracker Annual Adjustment Filing

Dear Mr. Diehl:

1. On March 1, 2011, Equitrans, L.P. (Equitrans) submitted, pursuant to section 6.38 of the General Terms and Conditions (GT&C) of its tariff, revised tariff record sections¹ to modify its Pipeline Safety Cost Tracker (PSCT) surcharge. The filing proposes to recover costs incurred under the Pipeline Safety Improvement Act of 2002 (PSIA) for calendar year 2011. Equitrans proposes an April 1, 2011 effective date. For the reasons discussed below, the Commission accepts Equitrans' revised tariff record sections to be effective April 1, 2011, subject to refund and conditions.
2. Equitrans states that the adjustment in its PSCT surcharge is authorized by section 6.38 of the GT&C of its tariff.² Equitrans states that, in accordance with section 6.38.2, it is proposing to change its PSCT surcharge to \$0.1476 per dekatherm (Dth), which is a decrease from Equitrans' currently effective PSCT surcharge of \$0.1528 per Dth.
3. Section 6.38.1 provides that the "Qualifying Costs" recoverable through the PSCT surcharge shall include (1) the return, taxes and depreciation expense associated with invested capital and (2) the actual operating and maintenance (O&M) expenses incurred

¹ Section 4.1, Transportation Rates NOFT & FTS, 4.0.0 and Section 4.2, Transportation Rates ITS, STS-1, AGS & Products Extraction, 4.0.0 to Equitrans Tariff, FERC NGA Gas Tariff (March 1, 2011 Filing).

² This tariff provision was approved by the Commission in Docket No. RP05-164-000, *et al.* See *Equitrans, L.P.*, 115 FERC ¶ 61,007 (2006).

by Equitrans. To calculate the PSCT surcharge, Equitrans states that it has several procedures in place to calculate pipeline safety expenditures to assure proper determination of all qualifying costs and whether these qualifying costs are either capitalized or treated as operation and maintenance (O&M) expenses. Equitrans explains that prior to starting any pipeline safety related projects a specific construction order account (CO) is created for which all capital expenditures specific to that pipeline safety project can be coded to by the Project Manager. Equitrans asserts that this provides a straight forward process to charging pipeline safety capital expenditures.

4. Section 6.38.4 sets forth the methodology that Equitrans must use to calculate its PSCT surcharge. In summary, subsection (a) provides that Equitrans must determine the amount of costs to be recovered in its PSCT by calculating its actual level of Qualifying Costs described in section 6.38.1 as of each December 31 preceding each effective date (April 1). Subsection (b) provides that the sum of the Qualifying Costs adjusted for any over-collection or under-collection from the prior period shall be divided by the actual throughput adjusted for any known and measureable changes, for the 12-month period ending December 31 to derive the PSCT surcharge to become effective on April 1 of the following year.

5. Equitrans states that during the calendar year 2010 it incurred total pipeline safety costs in the amount of approximately \$9.1 million. The data Equitrans submitted in support of its filing indicates that its calendar year 2010 total pipeline safety costs of \$9,064,962, adjusted by prior period projected over-collections of \$992,517, results in adjusted 2010 pipeline safety costs of \$8,072,444. That amount, divided by Equitrans' projected transportation billing determinants of 54,698,007 Dth, results in the proposed surcharge of \$0.1476 per Dth.³ According to Equitrans, the projected transportation billing determinants of 54,698,007 Dth are the result of adjustments leading to a reduction of 5,009,520 Dth from Equitrans' prior year's transportation billing determinants of 59,707,527 Dth.⁴ Equitrans asserts that the work papers included in the instant filing provide details on the calculation of the PSCT surcharge, as well as details regarding the qualifying capital and O&M costs.

6. Public notice of Equitrans' filing was issued on March 2, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁵

³ See March 1, 2011 Filing at Appendix A, Schedule WP-1.

⁴ See March 1, 2011 Filing at 2, *referencing* Appendix A, Schedule Workpaper 6 (WP-6): Over/Under Recovery Projection, projecting prior year's pipeline safety costs, based on the current actual PSCT revenues collected through January 2011 plus estimates for February and March 2011 and also trued up with last year's projected and actual over/under recovery.

⁵ 18 C.F.R. § 154.210 (2010).

Pursuant to Rule 214,⁶ 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. Independent Oil & Gas Association of West Virginia (IOGA) filed a protest (IOGA Protest). On March 18, 2011, Equitrans filed an answer (Equitrans Answer). Under Rule 213(a)(2) of the Commission's regulations, answers to protest are prohibited unless otherwise ordered by the decisional authority.⁷ We will accept Equitrans' answer because it provides a more complete record in this proceeding.

7. In its protest, IOGA states that Equitrans provides no explanation for why the projected billing determinants of 54,698,007 Dth used to develop the proposed surcharge of \$0.1476 per Dth is 5,009,520 Dth less than Equitrans' previous period determinants of 59,707,527 Dth. IOGA also states that Equitrans' surcharge for the 12-month period from April 2009-March 2010 (Prior Period) was based on projected billing determinants of 55,223,757 Dth, whereas the actual throughput was 57,653,056 Dth for that period, which IOGA claims resulted in an 11 percent over-collection of almost \$1 million.⁸ IOGA argues that its members should not be required to subsidize Equitrans by funding an obvious over-collection of the surcharge and that "credits in future trackers cannot make up for lost revenues in real-time." IOGA requests: (1) a finding that Equitrans' proposed surcharge is unjust and unreasonable due to excessive and unsupported billing determinants; and (2) a requirement that Equitrans base its surcharge on actual experience from April 2010-January 2011 and reasonable estimates for March-April 2011.

8. In its answer, Equitrans argues that the Commission should reject IOGA's contention that Equitrans understated its billing determinants. Equitrans asserts that billing determinants from a prior period are not a reasonable basis for establishing projected billing determinants. Equitrans further states that section 6.38.4(b) of its tariff permits adjustments to the prior period actual throughput to account for any known and measurable changes and, consistent with this provision, it adjusted the prior period billing determinants to reflect: (1) cancelled contracts in 2011; (2) significant overrun volumes which are not expected to recur; and (3) projected incremental growth. According to Equitrans the net result of these adjustments was a reduction of 5,009,520 Dth in billing determinants from the actual/estimated period. Equitrans asserts that because it calculated its proposed surcharge based on reasonably projected billing determinants the Commission should reject IOGA's claims on this point.

⁶ 18 C.F.R. § 385.214 (2010).

⁷ 18 C.F.R. § 385.213(a)(2) (2010).

⁸ *Citing* March 11, 2011 Filing, Appendix A, Schedule WP-11.

9. Equitrans also argues that IOGA's contention regarding the prior period over-collections of about \$1 million is misplaced. Equitrans notes that its previous tracker filings in 2007 and 2008 show that its over-collections have been minimal (\$14,501 and \$7,133, respectively) and that it experienced an under-collection of \$124,503 in 2009. Equitrans argues that the very nature of a tracker with a true-up mechanism is that any overage in one period is returned to customers in the next period, and that its calculation of the proposed surcharge reflects a credit for the overage collected in the prior period. Equitrans concludes that its filing does not reflect a subsidy but rather a properly functioning tracker.

10. We agree with Equitrans that it should not be required to apply only actual throughput in its PSCT rate calculation. Its tariff section 6.38.4(b) expressly requires the use of actual throughput as adjusted for known and measurable changes. However, the Commission finds that Equitrans is not following the terms of that section. Pursuant to section 6.38.4 (b), the sum of the qualifying costs adjusted for any over-collection or under-collection from the prior period must be divided by the sum of the actual throughput under certain rate schedules, adjusted for any known and measurable changes for the 12-month period ending December 31 to derive the PSCT surcharge to become effective on April 1 of the following year. To the contrary, Equitrans has used nine months of actual throughput (April through December 2010) and three months of estimated throughput (January through March 2011) instead of actual throughput required by the terms of its tariff for the 12-month period ending December 31, as adjusted for known and measurable changes.⁹

11. Therefore, the Commission finds that Equitrans' proposed PSCT surcharge has not been shown to be just and reasonable and may be unjust and unreasonable because it has not been calculated in accordance with section 6.38.4(b). Therefore, we will accept the revised tariff record sections effective April 1, 2011, subject to refund and conditions. Equitrans is directed to recalculate the PSCT surcharge in accordance with section 6.38.4 of the GT&C of its tariff. Equitrans must re-file its PSCT rates reflecting this recalculation within 20 days of the date of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.
Deputy Secretary.

⁹ We reject IOGA's argument that Equitrans' proposed surcharge is unreasonable and deny IOGA's request that we require Equitrans to base its surcharge billing determinants solely on actual experience.