

135 FERC ¶ 61,214
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 31, 2011

In Reply Refer To:
Big Sandy Pipeline, LLC
Docket Nos. RP11-2092-000,
RP11-2093-000 and RP11-2102-000

Big Sandy Pipeline, LLC
625 Liberty Avenue
Suite 1700
Pittsburgh, PA 15222-3111

Attention: Thomas Yeh
Manager, Rates and Commercial Analysis

Reference: Letter Order Accepting Baseline Tariff and Negotiated Rate Agreements

Ladies and Gentlemen:

1. On May 5, 2011, Big Sandy Pipeline, LLC (Big Sandy) filed, in Docket No. RP11-2092-000, a proposed baseline tariff¹ in the format required by Order No. 714² and Part 154 of the Commission's regulations³ to comply with the Commission's April 5, 2011 *Order Issuing Certificate* in Docket No. CP11-43-000.⁴ In its baseline tariff filing, Big Sandy also requests waiver of Ordering Paragraph (M) in the Commission's

¹Big Sandy's Tariff Title is "Big Sandy Pipeline, LLC/Tariffs". "Tariff Title" is the meta data element used to name the tariff data base.

² *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, 124 FERC ¶ 61,270 (2008).

³ Big Sandy originally filed its baseline tariff on May 2, 2011 in Docket No. RP11-2089-000. However, Big Sandy inadvertently filed its baseline tariff in that docket under Equitrans, L.P.'s company code. Big Sandy filed in Docket No. RP11-2095-000 to cancel the baseline tariff tendered under Docket No. RP11-2089-000.

⁴ 135 FERC ¶ 62,006 (2011) (April 5 Order).

April 5 Order to permit a June 1, 2011 effective date for the baseline tariff.⁵ On May 19, 2011, Big Sandy filed, in Docket No. RP11-2092-000, a request for a three-month extension of time, until September 1, 2011, to comply certain of the provisions required by Order No. 587-U.⁶

2. On May 5, 2011, Big Sandy filed, in Docket No. RP11-2093-000,⁷ tariff records containing six negotiated rate agreements, a table of contents and an updated list of non-conforming agreements.⁸ On May 11, 2011, Big Sandy filed, in Docket No. RP11-2102-000, tariff records containing four negotiated rate agreements and an updated list of non-conforming agreements.⁹ In each of its negotiated rate filings, Big Sandy also requests waivers of section 154.207 of the Commission's regulations and waivers of Ordering Paragraph (O) in the April 5 Order¹⁰ to permit a June 1, 2011 effective date for the proposed agreements in Docket Nos. RP11-2093-000 and RP11-2102-000.

3. The Commission grants the requested waivers, the three-month extension of time to comply with Order No. 587-U, and accepts Big Sandy's baseline tariff, *Big Sandy*

⁵ Ordering Paragraph (M) directed Big Sandy to file its actual tariff records at least 60 but not more than 90 days prior to the commencement of service under Big Sandy's tariff. *See Id.* ordering paragraph (M).

⁶ On March 17, 2010, the Commission amended its regulations that establish standards for interstate natural gas pipelines business practices and electronic communications to incorporate by reference into its regulations the most recent version of the standards, Version 1.9, adopted by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB). *See Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, 130 FERC ¶ 61,212 (2010) (Order No. 587-U).

⁷ Big Sandy originally filed the negotiated rate agreements and tariff revisions on May 3, 2011 in Docket No. RP11-2090-000. However, Big Sandy inadvertently filed Docket No. RP11-2090-000 under Equitrans, L.P.'s company code. On May 5, 2011, Big Sandy filed in Docket No. RP11-2090-000 to withdraw the negotiated rate agreements and tariff revisions that were tendered in that docket.

⁸*See* Appendix.

⁹*Id.*

¹⁰ Ordering Paragraph (O) directed Big Sandy to file its negotiated rate agreements reflecting the change in ownership of the Big Sandy Pipeline at least 60 but not more than 90 days prior to the commencement of service under Big Sandy's tariff. *See* April 5 Order, Ordering Paragraph (O).

Pipeline, LLC/Tariffs, subject to the conditions discussed below, and the tariff records listed in the Appendix effective June 1, 2011.

4. In Docket No. CP11-43-000, Big Sandy and its affiliate Equitrans, L.P. (Equitrans) filed a joint application (December 3 Application) seeking, among other things: (1) authorization for Equitrans to abandon by transfer to Big Sandy certain transportation facilities located in Floyd, Johnson, Carter, and Lawrence Counties, Kentucky; (2) a certificate of public convenience and necessity allowing Big Sandy to acquire from Equitrans and operate the Big Sandy Pipeline; and (3) a blanket transportation certificate under the Commission's regulations permitting Big Sandy to provide open access transportation services under the same rates, terms, and conditions applicable to service on the Big Sandy Pipeline facilities provided for under Equitrans' currently effective FERC Gas Tariff.

5. The Commission's April 5 Order granted Big Sandy and Equitrans' application and issued a certificate of public convenience and necessity to Big Sandy to acquire and operate the Big Sandy Pipeline.¹¹ The Commission's April 5 Order also directed, among other things, Big Sandy to: (1) incorporate Version 1.9 of the NAESB Standards adopted by the Commission in Order No. 587-U; (2) file its actual tariff records at least 60 but not more than 90 days prior to the commencement of service under Big Sandy's tariff; and (3) file the revised negotiated rate service agreements with the Commission reflecting the change in ownership of the Big Sandy Pipeline at least 60 but not more than 90 days prior to commencement of service on the Big Sandy Pipeline under Big Sandy's tariff.

6. In its baseline tariff filing, Big Sandy states that it will offer firm and interruptible transportation service under proposed Rate Schedules FTS and ITS, respectively. Big Sandy states that its proposed baseline tariff contains the same \$17.2724/Dth maximum Rate Schedule FTS reservation rate and \$0.5679/Dth maximum Rate Schedule ITS rate that was approved in Ordering Paragraph (L) of the April 5 Order. Big Sandy asserts that these are the same rates Equitrans is currently charging for service on the Big Sandy Pipeline.

7. The *pro forma* tariff Big Sandy filed in Docket No. CP11-43-000 is the same as Equitrans' tariff in all substantive respects. Big Sandy's proposed baseline tariff contains the following changes to the *pro forma* tariff filed in Docket No. CP11-43-000.

8. Big Sandy states that section 4.1 (Currently Effective Rates) of its proposed baseline tariff contains a 0.0 percent retainage factor rather than the -0.46 percent retainage factor set forth in section 4.1 of the *pro forma* tariff filed in Docket No. CP11-43-000. Big Sandy asserts that it has adopted the 0.0 percent retainage factor

¹¹ April 5 Order.

because it is the retainage factor currently applicable under Equitrans' tariff for service on the Big Sandy Pipeline.¹² Big Sandy contends that no shippers will be harmed if Big Sandy is permitted to adopt this retainage factor since it is the retainage factor currently applicable to all shippers on the Big Sandy Pipeline.

9. Big Sandy asserts that it has incorporated changes¹³ to its proposed baseline tariff reflecting the scheduling and curtailment priority revisions the Commission approved to Equitrans' tariff in its April 1, 2011 order¹⁴ in Docket No. RP11-1867-000 and accepted in an April 29, 2011 unpublished letter order in Docket No. RP11-1867-001.

10. Big Sandy states that, when it filed its December 3 Application for a certificate, its *pro forma* tariff did not reflect Version 1.9 of the NAESB Standards since Equitrans had not yet adopted Version 1.9 at the time that Big Sandy filed its *pro forma* tariff and its *pro forma* tariff was the same as Equitrans' tariff in all substantive respects. Big Sandy asserts that its proposed baseline tariff contains revisions to its *pro forma* tariff, in accordance with the April 5 Order's directive to reflect the latest version of the NAESB Standards adopted by the Commission at the time it files its actual tariff records in this proceeding.

11. Big Sandy asserts that its pipeline operator, Equitrans, stated in its April 1, 2011 filing in Docket No. RP11-1969-000 that it continues to experience issues with its operations software that prevent it from full compliance with a number of items within five Version 1.8 NAESB Standards (1.4.1 - Nominations; 1.4.5 - Scheduled Quantities; 2.4.1 PDA; 2.4.3 - Allocation; and 2.4.4 Shipper Imbalance).¹⁵ Big Sandy states that, as set forth in Equitrans' April 1 filing in Docket No. RP11-1969-000, these outstanding non-compliant items generally relate to missing labels or missing code values and do not affect the rights or ability of any shipper to access either transportation services or information about transportation services. Big Sandy asserts that, consistent with Equitrans' practice in Docket Nos. RP10-904-000, and RP11-1969-000, Big Sandy has indicated the NAESB Standards that have not been fully implemented with an asterisk

¹² The 0.0 percent Retainage Factor was approved by the Commission and became effective on Equitrans' system for the services proposed herein on March 1, 2011. *See Equitrans, L.P.*, Unpublished Letter Order, Docket No. RP11-1735-000 (Feb. 24, 2011).

¹³ The proposed changes to the *pro forma* tariff are contained in sections 5.1, 6.6, 6.7, 6.8, and 6.9 of Version 0.0.0 of Big Sandy's proposed baseline tariff.

¹⁴ *Equitrans, L.P.* 135 FERC ¶ 61,001 (2011).

¹⁵ Equitrans' current software does not permit full compliance with the NAESB label and code value standards regarding the referenced functions.

“*” in proposed tariff section 6.33. Big Sandy contends that it will file an updated section 6.33 to remove the asterisks as soon as it has resolved these outstanding items.

12. Big Sandy states that it did not incorporate data set 0.4.1 because the Big Sandy Pipeline is not currently capable of providing storage service. Therefore, Big Sandy requests that the Commission grant waiver of Order No. 587-U’s requirement to include this specific storage data set in accordance with the Commission’s finding in Transwestern Pipeline Company, LLC’s Docket No. RP10-1214-000.¹⁶ Big Sandy states that, consistent with the Commission’s order in *Transwestern*, it will file a tariff revision to incorporate data set 0.4.1 if its system includes storage in the future.

13. Ordering Paragraph (M) of the April 5 Order directs Big Sandy "to file its actual tariff records at least 60 but not more than 90 days prior to the commencement of service under Big Sandy's tariff."¹⁷ Big Sandy requests that the Commission waive this requirement to permit the tariff records composing its baseline tariff to become effective on June 1, 2011. Big Sandy states that it understands that the 60-day minimum period for filing new tariffs is generally imposed to permit Commission staff and other parties adequate time to review an entire tariff, however, Big Sandy submits that good cause exists to waive the requirement in Ordering Paragraph (M) and to permit an expedited review of Big Sandy's baseline tariff.

14. Big Sandy states that the *pro forma* tariff provisions that were filed in Docket No. CP11-43-000 were the same as the applicable provisions of Equitrans' Commission approved tariff in all substantive respects. Big Sandy asserts that no comments or protests were filed opposing any proposed *pro forma* tariff provisions, and the only change to the *pro forma* tariff that the Commission directed in its April 5 Order was the inclusion of the NAESB Version 1.9 Standards in Big Sandy's actual tariff. Furthermore, Big Sandy states that the current changes in its baseline tariff are being made to incorporate changes to the Equitrans tariff that have already been vetted by the Commission, including notice and an opportunity for intervention and comment by Big Sandy's shippers. Big Sandy argues that including these changes herein is necessary so that Big Sandy can continue service on the Big Sandy Pipeline under the same terms and

¹⁶ *Transwestern Pipeline Co.*, 133 FERC ¶ 61,110, at P 3 (2010) (*Transwestern*). “In addition, Transwestern has not incorporated data set 0.4.1 because it indicates in its cross-reference table that this data set is not applicable due to it having no storage service on its system. Based on Transwestern’s description of its system, we find that good cause exists to grant waiver of the inclusion of the storage data set. The waiver is limited to the NAESB WGQ’s Version 1.9 standards. If in the future Transwestern’s system includes storage, it will be required to include data set 0.4.1.”

¹⁷ See April 5 Order, Ordering Paragraph (M).

conditions as shippers currently receive under Equitrans' tariff. Big Sandy asserts that all changes from the *pro forma* tariff have been indicated in the marked tariff and the table submitted with the instant application.

15. Big Sandy asserts that no shippers will be harmed by the waiver of Ordering Paragraph (M) and acceptance of the proposed baseline tariff, effective June 1, 2011. Big Sandy states that the requested waiver will permit Big Sandy and Equitrans to restructure their operations in a swift and orderly fashion. Big Sandy asserts that both of these parties have expended considerable resources to ensure that the Big Sandy Pipeline is transferred as quickly and seamlessly as possible. Big Sandy states that the Big Sandy Pipeline and the Equitrans mainline facilities are physically and operationally separate and distinct and Big Sandy is prepared to commence service on these facilities on June 1, 2011, with no impact to shippers.

16. On May 19, 2011, Big Sandy filed a request for a three-month extension of time, until September 1, 2011, to comply with the provisions of Order No. 587-U, which require the adoption of Version 1.9 of the NAESB Standards. Big Sandy also requests that the tariff submitted in Docket No. RP11-2092-000 be allowed to take effect on June 1, 2011 as requested, and upon Commission approval, it will submit a compliance filing with the revised actual tariff records.

17. Big Sandy asserts that it uses the product of a third-party vendor, SunGard Energy Solutions' ("SunGard"), as its primary operations software and, therefore, it is dependent on SunGard's release schedule of their NAESB Version 1.9 update (1.9 Patch). Big Sandy states that Big Sandy and its prior owner, Equitrans, had been hopeful that the 1.9 Patch would be ready to fully implement on June 1, 2011. However, Big Sandy asserts that the latest software update was not received by Equitrans until approximately one week ago, and testing of that update has just begun. Big Sandy states that significant time to complete the process will be necessary given that extensive testing and review is required prior to deploying the new updates provided by SunGard. Accordingly, Big Sandy requests a three-month extension of time until September 1, 2011 to comply with the Version 1.9 NAESB Standards. Big Sandy states that, if the testing is successful prior to that date, Big Sandy will file to implement the NAESB Version 1.9 Standards prior to that time.

18. On May 5, 2011, Big Sandy tendered tariff records containing six revised negotiated rate agreements and on May 11, 2011, Big Sandy tendered tariff records containing four revised negotiated rate agreements in accordance with Ordering Paragraph (O) of the April 5 Order. Big Sandy also proposed to create a separate Original Volume 1A of its tariff, which will have separate sections for its non-conforming agreements, negotiated rate agreements, and negotiated rate agreements with non-conforming provisions. The tariff records containing the revised negotiated rate agreements will be included in that volume.

19. In addition, since the text of the revised agreements is now identical to Big Sandy's pending Form of Service Agreement for service under Rate Schedule FTS, Big Sandy submitted in Docket No. RP11-2093-000, tariff records containing the following tariff sections updating the list of non-conforming service agreements to be included in Original Volume No.1 of its proposed tariff: Section 1.0, Version 1.0.0 (the Table of Contents) and Section 6.4.1, Version 2.0.0 (the list of non-conforming agreements). Big Sandy filed in Docket No. RP11-2102-000 tariff records containing Section 6.4.1, Version 3.0.0 to Original Volume No. 1 of its tariff,¹⁸ updating the list of non-conforming service agreements. Big Sandy requests an effective date of June 1, 2011 for its proposed revised agreements, a waiver of section 154.207 of the Commission's regulations, and a partial waiver of the directive in Ordering Paragraph (O) of the April 5 Order to permit the revised agreements to become effective on the date requested.

20. Big Sandy states that the agreements tendered in Docket No. RP11-2093-000 were initially filed by Equitrans on December 31, 2009 and accepted by Commission letter order dated January 27, 2010 in Docket No. RP10-288-000. Big Sandy states that the agreements tendered in Docket No. RP11-2102-000 were initially filed by Equitrans on December 31, 2009 and accepted in an unpublished letter order dated January 27, 2010 in Docket No. RP10-288-000.¹⁹ Big Sandy asserts that the only revisions it made to the Equitrans' agreements were those necessary to reflect the change in pipeline ownership. Big Sandy states that the revised agreements provide for service at the same rates for firm service on the Big Sandy Pipeline as Equitrans' currently effective rates under the respective agreements.²⁰

¹⁸ Proposed Section 6.41 removes the executed agreements submitted in this filing since they are no longer non-conforming agreements. Section 6.41 also proposes to remove the EQT Production Company agreements (EQTR8255-00001BSP and EQTR8256-00001BSP) as these agreements had been permanently released to EQT Energy LLC in 2008 and the released capacities are reflected in the new EQT Energy agreements.

¹⁹ One negotiated rate agreement between Equitrans and EQT Energy LLC (Contract No. EQTR 8570- 00002BSP, dated January 1, 2010, effective February 1, 2010) was re-executed with a new Maximum Daily Quantity and filed in Docket No. RP10-348-000. The re-executed agreement was accepted by Commission letter order issued on February 16, 2010.

²⁰ Big Sandy explains that EQT Energy LLC recently extended the term of its agreements so that they will expire on December 31, 2027 and Big Sandy states that the revised agreements tendered in Docket No. RP11-2102-000 reflect the new term.

21. Big Sandy states that the negotiated rate agreements between Equitrans and its customers on the Big Sandy Pipeline were originally filed as "non-conforming" agreements because Exhibit A to each of those agreements deleted the flexible secondary receipt and delivery points provision that is in the *pro forma* service agreement for Rate Schedule FTS service in Equitrans' tariff. Big Sandy asserts that this provision is not applicable to the Big Sandy Pipeline because there is only one receipt and one delivery point on Big Sandy's system. Additionally, Big Sandy asserts that, because the Big Sandy Pipeline is physically and geographically isolated from the Equitrans mainline system, Big Sandy customers are not able to move gas between a point on the Big Sandy Pipeline and a point on the Equitrans mainline system. Therefore, Big Sandy contends that it has removed the flexible secondary receipt and delivery points provision from the revised agreements since it is no longer applicable. Big Sandy states that the revised agreements conform to its Form of Service Agreement since the text of the revised agreements is now identical to Big Sandy's proposed Form of Service Agreement for service under Rate Schedule FTS, which does not include the flexible secondary receipt and delivery points provision.

22. Big Sandy submits that good cause exists to waive the requirement in Ordering Paragraph (O) of the April 5 Order and section 154.207 of the Commission's regulations to permit an expedited review of the revised agreements since the revised agreements are substantively identical to the agreements approved previously, with only ministerial changes necessary to reflect the change in pipeline ownership. Big Sandy argues that waiver is appropriate so that it may provide service to its customers immediately upon the date that Big Sandy acquires the Big Sandy Pipeline.

23. Public notice of Big Sandy's filings in Docket Nos. RP11-2092 and RP11-2093 issued on May 6, 2011. Public notice of Big Sandy's filing in Docket No. RP11-2102 issued on May 16, 2011. 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 the proceeding or place additional burdens on existing parties. No protests or comments were received.

24. Big Sandy includes a \$.0019 per Dth Annual Charge Adjustment (ACA) surcharge in section 4.1, Transportation Rates FTS & ITS, 0.0.0 of its proposed baseline tariff. Big Sandy has not yet been billed for or paid any annual charges; therefore, it is not yet authorized to collect this charge. Accordingly, Big Sandy is directed to file, within ten days of the date of this order, a revised tariff record eliminating the ACA

surcharge from its baseline tariff.²¹ Big Sandy may file to collect an ACA surcharge, in accordance with section 154.402 of the Commission's regulations, after it pays its annual charge bill.

25. Big Sandy reflects Version 1.9 of the NAESB Standards in its baseline tariff. However, due to unforeseen problems with its third-party vendor, SunGard, Big Sandy's system is unable to support the Version 1.9 NAESB Standards and it requested a three-month extension of time. The Commission grants Big Sandy's request for a three-month extension of time to file to comply with the NAESB Version 1.9 Standards contained in Order No. 587-U.

26. The Commission further grants the requested waivers²² and accepts Big Sandy's baseline tariff tendered in Docket No. RP11-2092-000 to be effective June 1, 2011, subject to conditions. First, the Commission's acceptance of the baseline tariff is conditioned on Big Sandy submitting a compliance filing, within ten days of the date of this order, containing revised tariff records eliminating the ACA surcharge from its baseline tariff and incorporating Version 1.8 of the NAESB Standards into its baseline tariff. Thereafter, Big Sandy must submit to the Commission another compliance filing with tariff records incorporating Version 1.9 of the NAESB Standards into its baseline tariff on the earlier of the date its software is successfully tested or September 1, 2011.

27. Finally, with regard to Big Sandy's requested waiver in Docket Nos. RP11-2093-000 and RP11-2102-000 of Ordering Paragraph (O) of the April 5 Order, the Commission grants the requested waivers and accepts the tariff records listed in the

²¹ Section 154.402 of the Commission's regulations requires a company to pay its bill for annual charges before it can apply the ACA unit surcharge to its rates.

²² With regard to Big Sandy's requested waiver of data set 0.4.1 in Order No. 587-U, this waiver is limited to the NAESB WGQ's Version 1.9 Standards and if in the future Big Sandy's system includes storage, it will be required to include data set 0.4.1.

Appendix to be effective June 1, 2011. The tariff records listed in the Appendix contain negotiated rate agreements which had been accepted in prior Equitrans' proceedings and related ministerial tariff revisions.

By direction of the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Docket Nos. RP11-2092-000, *et al.*

APPENDIX

Big Sandy Pipeline, LLC

Tariff Records Accepted Effective June 1, 2011

Docket No. RP11-2093-000

Big Sandy Pipeline, LLC

Tariffs

Section 1, Table of Contents, 1.0.0

Section 6.41, Non-Conforming Agreements, 2.0.0

Tariff, Original Volume No. 1A, 0.0.0

Section 1, Table of Contents - Original Volume No. 1A, 0.0.0

Section 2, Negotiated Rate Agreements, 0.0.0

Section 2.1, L & B Oil and Gas Inc., BSP11770-00022BSP, 0.0.0

Section 2.2, L & B Oil and Gas Inc., BSP11796-000222BSP, 0.0.0

Section 2.3, Roberts Production Co., BSP11801-00025BSP, 0.0.0

Section 2.4, Troublesome Creek Gas Corp., BSP11802-00026BSP, 0.0.0

Section 2.5, Troublesome Creek Gas Corp., BSP11803-00026BSP, 0.0.0

Section 2.6, Kinzer Business Realty, BSP11806-00028BSP, 0.0.0

Section 3, Non-Conforming Agreements, 0.0.0

Section 4, Non-Conforming Negotiated Rate Agreements, 0.0.0

Docket No. RP11-2102-000

Big Sandy Pipeline, LLC

Tariffs

Section 6.41, Non-Conforming Agreements, 3.0.0

Section 2.7, EQT Energy, LLC, BSP11931-00021BSP, 0.0.0

Section 2.8, EQT Energy, LLC, BSP11932-00021BSP, 0.0.0

Section 2.9, Clean Gas Inc., BSP11798-00023BSP, 0.0.0

Section 2.10, Clean Gas Inc., BSP11799-00023BSP, 0.0.0