

147 FERC ¶ 61,074
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 29, 2014

In Reply Refer To:
Equitrans, L.P.
Docket No. RP14-685-000

EQT Corporation
Attention: Paul W. Diehl,
Senior Counsel - Midstream
625 Liberty Avenue, Suite 1700
Pittsburgh, PA 15222

Dear Mr. Diehl:

1. On March 31, 2014, Equitrans, L.P. (Equitrans) filed tariff records¹ to add a new Rate Schedule IWS (Interruptible Wheeling Service) to its tariff and make conforming changes elsewhere in its tariff, to be effective April 30, 2014.² Equitrans requests waiver of sections 154.202(a)(1)(v-viii) and 154.204 (e) of the Commission's regulations to implement its proposed service.³ As discussed below, the Commission accepts the proposed tariff records subject to refund and conditions and suspends them to be effective October 1, 2014, or earlier order of the Commission.

¹ See the Appendix to this order for a listing of the tariff sheets.

² Section 4 of the Natural Gas Act (NGA) requires no change shall be made in any rate or contract relating to rates except after 30 days' notice to the Commission and the public, unless the 30-day notice period is waived for good cause shown. This is embodied in the Commission's regulations at 18 C.F.R § 154.207 (2013). The effective date requested by Equitrans does not provide the requisite 30 day notice period. However, because of the Commission's action in suspending Equitrans' filing herein for the maximum period, no waiver or further action is required.

³ 18 C.F.R. §§ 154.202(a)(1)(v-viii) and 154.204(e) (2013).

2. Equitrans states that it proposes the instant service to enhance flexibility for market participants in the Marcellus shale area by establishing a new interruptible wheeling service. Section 2.1 of proposed Rate Schedule IWS provides that the service will apply when “Customer requests the transfer of gas under this Rate Schedule between two Delivery Point interconnections on Equitrans” system. In addition, section 5.1 states the wheeling service “shall consist of the receipt of gas on behalf of customer at an eligible interconnect on the Equitrans system and the transfer of equivalent quantities of natural gas by Equitrans for Customer, or for Customer’s account, to another eligible interconnect on the Equitrans system.” Equitrans asserts that its proposed Rate Schedule IWS will have no impact on existing firm services. In particular, Equitrans states that its proposal will have no adverse effect on receipt and delivery point flexibility, nominating and scheduling priorities, allocation of capacity, or operating conditions. Equitrans states that because of the absence of documented actual costs and revenues attributable to the new Rate Schedule IWS service, there is no direct basis for deriving an alternative rate and it therefore proposes to base the rates for its proposed service on its Rate Schedule ITS (interruptible transportation) rates. Equitrans states that this use of existing interruptible transportation recourse rates as the reference rate for Rate Schedule IWS service consistent with Commission precedent concerning the rates for new services proposed between general NGA section 4 rate cases.⁴

3. Equitrans states that the proposed new service will not increase fuel usage on its system, nor will Equitrans incur any variable costs while providing this service. Therefore, it proposes to apply a minimum rate of \$0.0000 per dekatherm (Dth) for service under Rate Schedule IWS. Equitrans states that the Commission has previously approved the use of a minimum rate of \$0.0000 for similar services where no variable costs were incurred.⁵

⁴ Equitrans Transmittal Letter at 2 (citing, *Great Lakes Gas Transmission P’ship*, 83 FERC ¶ 61,064, at 61,338 (1998); *Florida Gas Transmission Co.*, 81 FERC ¶ 61,265, at 62,305 (1997); *Mojave Pipeline Co.*, 79 FERC ¶ 61,347, at 62,480-81 (1997); *Tennessee Gas Pipeline Co.*, 87 FERC ¶ 61,375, at 62,399 (1999); and *ANR Pipeline Co.*, 83 FERC ¶ 61,087, at 61,427 (1998) (*ANR*)).

⁵ *Id.* (citing, *ANR Pipeline Co.*, 86 FERC ¶ 61,316, at 62,135 (1998) (approving a minimum rate of \$0.0000 for an interruptible wheeling service where “no fuel cost or other variable costs associated with the transmission and compression of gas by others are likely to be incurred”) (citing *ANR*, 83 FERC ¶ 61,088 and *Midwestern Gas Transmission Corp.*, 50 FERC ¶ 61,084 (1990))). In section 4.4 of the proposed tariff, Equitrans proposes a maximum rate of \$0.6409 per Dth for service under Rate Schedule IWS. Equitrans states that this rate is equal to the total charges a customer would be

(continued...)

4. Public notice of Equitrans' filing was issued on April 1, 2014 with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2013)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2013)), all timely filed motions to intervene and any unopposed motion 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 April 14, 2014, Peoples Natural Gas Company LLC, Peoples TWP LLC, and Peoples Gas WV LLC (collectively, Peoples) filed a protest to Equitrans' filing. On April 18, 2014 Equitrans filed an answer to Peoples' protest. While the Commission's regulations generally prohibit answers to protests, the Commission will accept the answer to provide a better understanding of the issues in this proceeding.⁶

5. In its protest, Peoples states that it supports the increased flexibility sought by Equitrans but asserts that the tariff language Equitrans employs confuses different types of market center services. For instance, Peoples asserts that, while Equitrans states that it intends to implement a wheeling service utilizing displacement, it does not limit the service as one that must be performed by displacement. Peoples states that Equitrans proposes provisions that appear to permit a physical transportation of natural gas and has compounded this error by also proposing to exempt the wheeling transactions from fuel retention and minimum rates that would be otherwise applicable to interruptible transportation of natural gas. Peoples also objects to Equitrans' proposed minimum rate of \$0.0000/Dth. Peoples argues that Equitrans must establish that a Rate Schedule IWS transaction will not cause Equitrans to incur variable costs before it would be appropriate to permit it to discount below the minimum rates.

6. Peoples asserts that section 2 of the proposed tariff sections refers to service between delivery points. Peoples questions whether the use of this term accurately describes transportation by displacement of gas and suggests that service will occur between receipt and delivery points. Peoples states that Equitrans should explain how service will occur between two delivery points and how such service avoids being a physical transportation of gas that is accomplished without fuel usage.

7. Peoples asserts that the proposed rates appear to include the Public Safety Cost (PSC) surcharge for which Equitrans has other provisions in its tariff that state that it may

assessed if it utilized Rate Schedule ITS service agreements to transport gas across the Mainline or Sunrise Transmission Systems to the Allegheny Valley Connector, or vice versa.

⁶ 18 C.F.R. § 385.213(a)(2) (2013).

discount its PSC Rate but that it is fully at risk for recovery of PSC costs.⁷ Peoples contends that, because the PSC is not listed as a separate component of the Rate Schedule IWS maximum rate, but is simply included in the proposed overall Rate Schedule IWS maximum rate, it will be difficult to determine whether the PSC has been discounted if Equitrans provides a discount to a Rate Schedule IWS customer. Peoples argues that Equitrans should be required to separately state the individual components of the Rate Schedule IWS rates along with the order in which it will discount these components when Equitrans finds it necessary to discount this rate.

8. Peoples also asserts that the rates for the proposed Interruptible Wheeling Service are shown in section 4.4, Version 2.0.0 which is identified in the header of the page as “FORM OF SERVICE AGREEMENTS.” Peoples states that this should be corrected to read “STATEMENT OF RATES.”

9. In its answer, Equitrans states that it has addressed the concerns of Peoples and agrees to file revised tariff records to address such concerns. Equitrans provides *pro forma* examples of proposed tariff language to mitigate issues raised by Peoples in the appendix to its answer. Equitrans states that many of the issues raised by Peoples stem from its concern that Equitrans’ proposal will include physical transportation. Equitrans asserts that Rate Schedule IWS service is not intended to be a physical transportation service and that physical transportation service on the Equitrans system will require a transportation service agreement in accordance with its tariff. Equitrans maintains that such an agreement would be subject to the applicable minimum tariff rate applicable to the service. Equitrans states that its proposal is a complement to, and not a replacement of, its existing firm and interruptible services.

10. Equitrans states that while its proposed service will permit customers to wheel natural gas from one delivery point to another delivery point to meet market demands or otherwise increase shipper flexibility based on the operational capability of Equitrans’ reticulated system, the service is not a physical gas transportation service. To respond to Peoples express concern regarding the use of receipt points under the proposed service, Equitrans proposes revisions to Rate Schedule IWS to clarify that the service is limited to transfers between delivery points. For example, Equitrans proposes to revise section 5.1, quoted above, to specify that the service consists of the receipt of natural gas at an “eligible Delivery Point” and the transfer of that natural gas to an “eligible Delivery Point,” rather than referring to “interconnects.” Equitrans also states that to the extent that natural gas is received at a receipt point and delivered to a delivery point, its

⁷ Peoples state that Section 6.38(3) of Equitrans’ General Terms & Conditions (GT&C), Pipeline Safety Cost (PSC) Rate, provides: “Effect of Discounting. Equitrans s the discretion to discount the PSC rate and is fully at risk.”

customers would be required to utilize one of its transportation services under Rate Schedules FTS, ITS, NOFT, or FTSS.

11. Equitrans also responds to Peoples' assertion that Equitrans should separately state the PSC and other surcharges. Equitrans states that the PSC is a fixed rate for which it is at risk for recovery and, therefore, Peoples' argument is moot. Equitrans asserts that because the Rate Schedule IWS is not a transportation service, transportation rates, including the PSC if applicable, will be assessed in accordance with Equitrans' tariff.

12. Equitrans states that Peoples notes that the header of proposed section 4.4 misidentified the provisions contained on the pages and Equitrans states that it proposes to correct this misidentification as suggested by Peoples. Equitrans also states that in order to alleviate Peoples' concerns that Equitrans intends to utilize Rate Schedule IWS to replace its existing transportation services, Equitrans will clarify in section 2.1 of Rate Schedule IWS, that Rate Schedule IWS shall apply to all interruptible wheeling service rendered by Equitrans, "provided that Customer has nominated gas to the applicable Delivery Points under a transportation service agreement." Additionally, in sections 2.2 and 2.3 of Rate Schedule IWS, in order to differentiate the proposed interruptible wheeling service from a transportation service, Equitrans proposes to add "Customer must arrange for Transportation in accordance with Equitrans' FERC Gas Tariff under separate service agreements or with a third party interconnecting service provider for physical receipt and Transportation of natural gas quantities preceding interruptible wheeling transfers that are effected pursuant to nominations under this Rate Schedule" and "Customer must arrange for Transportation in accordance with Equitrans' FERC Gas Tariff under separate service agreements or with a third party interconnecting service provider for physical movement of natural gas quantities subsequent to interruptible wheeling transfers that are effected pursuant to nominations under this Rate Schedule."

13. Equitrans asserts that it inadvertently referenced receipt points in its proposed Form of Service Agreement for Rate Schedule IWS. Accordingly, to eliminate any confusion as to the points that are eligible to be utilized for the proposed interruptible wheeling service, Equitrans proposes to remove these references in sections 5 and 6 of the Form of Service Agreement. Finally, Equitrans proposes to add a section 3.2 of Rate Schedule IWS to clarify when the transportation retainage factor will be applied, and has added Rate Schedule IWS service to the footnotes for the Mainline System, Sunrise Transmission System and Allegheny Valley Connector Transmission Retainage Factors in section 4.5 – Statement of Rates.

14. The Commission shares many of the concerns raised by Peoples concerning the tariff language proposed by Equitrans, and Equitrans' answer has not fully resolved those concerns. In particular, contrary to claims made by Equitrans in its Transmittal letter, the revised tariff language proposed by Equitrans in its answer appears to contemplate that some Rate Schedule IWS transactions may include the use of fuel and/or physical transportation. For example, in section 3.2, Equitrans proposed language that states:

“Equitrans will retain the percentages of gas received for interruptible wheeling services at the applicable transmission retainage factor as set forth in section 4.5 – Statement of Rates; provided, however, that Equitrans will not retain fuel in those instances *where the transaction does not cause Equitrans to use fuel.*” Equitrans also states in footnotes to the proposed tariff record that contains the retainage factors that it will apply the retainage percentage to various rate schedules including Rate Schedule IWS, *except when the IWS transaction does not cause Equitrans to use fuel.* This language appears to be at odds with Equitrans’ assertion in its Transmittal letter that “Equitrans proposes to apply a minimum rate of \$0.0000 per Dth for service under Rate Schedule IWS and to assess no fuel usage charge because *Equitrans will not increase fuel usage or incur any variable costs while providing this service.*”⁸ Moreover, Equitrans also states in its Transmittal letter that “Rate Schedule IWS is an interruptible wheeling service that will provide transportation between different points on the Equitrans system *utilizing displacement.*”⁹

15. Some of this confusion is clarified in Equitrans’ Answer where Equitrans belatedly explains in a footnote that “[u]pon implementation, Equitrans anticipates that Shippers will propose a variety of IWS transactions which may or may not be displacement transactions. Equitrans’ proposal is designed to provide the flexibility to evaluate proposals contingent upon operating conditions.”¹⁰ In other words, it appears that Equitrans’ proposal to base its Rate Schedule IWS service on the use of displacement without the use of fuel as described in its Transmittal letter depends on its evaluation of unspecified operating conditions and future shipper proposals, and Equitrans reserves the right to engage in some unspecified IWS transactions which will use fuel. This aspect of Equitrans’ proposal violates Commission policy.

16. In *CIG*,¹¹ the Commission stated that, while it does not permit pipelines to discount fuel charges, the Commission has

permitted pipelines to exempt certain transactions from fuel charges or portions of their pipeline systems if no fuel is used in those transactions or portions of their system. However, the Commission has only permitted the

⁸ Equitrans’ Transmittal Letter at 2. (emphasis provided)

⁹ Equitrans’ Transmittal Letter at 1. (emphasis provided)

¹⁰ Equitrans’ Answer at 3, n.2.

¹¹ *Colorado Interstate Gas Co.*, 112 FERC ¶ 61,199, at P 19 (2005) (*CIG*); *Ozark Gas Transmission LLC*, 122 FERC ¶ 61,295, at P 19 (2008).

pipeline to provide such exemptions, *if the pipeline has first made a filing with the Commission that identifies the specific transactions which the pipeline proposes to exempt from fuel charges and demonstrated that those transactions do not require the use of fuel.*¹²

17. The Commission has also ruled that once a pipeline has made the requisite fuel use demonstration, the exempted transactions must then be listed in the pipeline's tariff. For example, in *Northern Natural*, the Commission "insisted on those requirements [i.e., listing in the pipeline's tariff] to assure that there will be non-discriminatory selection of exempted transactions and to avoid unwarranted costs shifts to other customers."¹³

18. Here, Equitrans has proposed to exempt certain unspecified transactions under Rate Schedule IWS from fuel and retainage costs, while simultaneously retaining the flexibility to impose fuel and retainage costs on other unspecified Rate Schedule IWS transactions. Equitrans has not provided any indication of the specific transactions it would exempt from fuel charges. The absence of such information violates the Commission's policy that a pipeline must specify in its tariff what transactions are exempt from fuel charges.

19. The Commission is also concerned that, despite Equitrans' representations in its Transmittal letter that service under Rate Schedule IWS would involve only displacement service and that a fuel charge would not be assessed, Equitrans now appears to be seeking to reserve "flexibility" to evaluate future service under Rate Schedule IWS to allow physical transportation of natural gas and/or the imposition of a fuel charge. Moreover, the Commission cannot discern from Equitrans' filing and answer whether it intends to impose the PSC on Rate Schedule IWS service. If Equitrans intends to do so, it must separately state in its tariff that rate component, any other component of the rate, and a statement describing the order in which each component of Rate Schedule IWS rate will be discounted.¹⁴

¹² *CIG*, 112 FERC ¶ 61,199 at P 19 (citing *Northern Natural Gas Co.*, 82 FERC ¶ 61,270, at 62,062 (1998). *See also NorAm Gas Transmission Co.*, 84 FERC ¶ 61,006, at 61,021 (1998)); and *Williams Natural Gas Co.*, 75 FERC ¶ 61,023, at 61,075 (1996), where the Commission accepted tariff sheets filed by Williams proposing a zero fuel charge for all transportation backhauls between specified receipt and delivery points because Williams made the requisite showing that the subject transactions did not require any compression or fuel consumption.

¹³ *Northern Natural Gas Co.*, 82 FERC at 62,062.

¹⁴ 18 C.F.R. § 154.109(c) (2013).

20. Accordingly, while several of the issues raised by Peoples are adequately addressed by Equitrans' answer, the Commission is unable to determine the type and limits of the service that Equitrans intends to provide under its instant proposal as modified by its answer. Therefore, the Commission cannot find that the proposal is just and reasonable. Consequently, Equitrans must fully explain its proposed service and provide tariff records that purport to implement the service as explained. If Equitrans desires to exempt Rate Schedule IWS transactions from fuel charges, it must either revise Rate Schedule IWS so that it only applies to transactions that do not use fuel or it must set forth in Rate Schedule IWS the specific transactions that will be exempt from fuel charges. Moreover, if Equitrans intends to use this rate schedule for as yet unknown future transactions that may require more system assets than simple displacement service and that utilize fuel, Equitrans must justify why such service should be accomplished under the instant rate schedule.

21. Accordingly, the Commission accepts the proposed tariff records subject to the condition that Equitrans file revised tariff records within 30 days of the issuance of the instant order to revise the tariff records as discussed in this order.

22. Equitrans also requests waiver of sections 154.202(a)(1)(v-viii) and 154.204 (e) of the Commission's regulations¹⁵ which require a pipeline to provide a projection of the effects on costs and revenues of the new service. Because, as discussed above, the Commission cannot determine the extent or nature of the service Equitrans proposes, the Commission will deny this request and require that Equitrans provide the information required by the Commission's regulations within 30 days of the issuance of this order or provide a full explanation of why such information should not be required. The Commission will consider waiving its regulations based upon the information it receives in that filing.

23. Based upon a review of the filing, the Commission finds that the proposed tariff records have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the tariff records for filing, subject to refund, and suspends their effectiveness for the period set forth below, subject to the conditions set forth in this order.

24. 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. (*See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension)). It is recognized, however, that

¹⁵ 18 C.F.R. §§ 154.202(a)(1)(v-viii) and 154.204(e) (2013).

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 accept and suspend the proposed tariff records to be effective October 1, 2014, or earlier order of the Commission, subject to refund, and the conditions of this order.

By direction of the Commission

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Equitrans, L.P.
FERC NGA Gas Tariff
Equitrans Tariff

Tariff Records Accepted and Suspended, Subject to Refund and Conditions, Effective October 1, 2014, or Earlier Order of the Commission,

[Section 1, Table of Contents, 10.0.0](#)

[Section 4.4, Other Service Rates LPS & IWS, 2.0.0](#)

[Section 5.15, Rate Schedule IWS, 0.0.0](#)

[Section 6.8, Scheduling of Services, 8.0.0](#)

[Section 6.9, Curtailment of Service, 4.0.0](#)

[Section 6.11, Operational Flow Orders, 7.0.0](#)

[Section 7.14, Rate Schedule IWS, 0.0.0](#)

[Section 7.14.1, Rate Schedule IWS - Exhibit A, 0.0.0](#)

[Section 7.14.2, Rate Schedule IWS - Optional Exhibit B, 0.0.0](#)

[Section 7.14.3, Rate Schedule IWS - Optional Exhibit C, 0.0.0](#)

[Section 8.1, Service Request Form, 5.0.0](#)