151 FERC ¶ 61,063
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Equitrans, L.P. Docket No. RP15-673-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS
SUBJECT TO REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued April 22, 2015)

1. On March 23, 2015, Equitrans, L.P. (Equitrans) filed tariff records to establish a new Rate Schedule FLPS (Firm Lending and Parking Service (FLPS)), update the existing Rate Schedule LPS (Lending and Parking Service (LPS)), modify the existing Lending and Parking Service Agreement and Exhibits, and make other conforming changes to its Tariff.[1] Equitrans proposes that the tariff records take effect on April 23, 2015. As discussed below, the Commission accepts and suspends the tariff records, subject to refund and conditions and further Commission action, effective September 23, 2015, or a date set forth in a subsequent order.

The Instant Filing

Lending and Parking Services

2. Equitrans states that, in order to enhance flexibility, it is proposing to add a new Firm Lending and Parking Service to be provided pursuant to Rate Schedule FLPS on Equitrans' Mainline and Sunrise Transmission Systems. Equitrans further states that it is proposing this new service in response to interest expressed by existing and potential customers. Equitrans states that the proposed service will allow customers to borrow or park gas on Equitrans' system on a firm basis consistent with other pipeline and storage companies' Commission-approved tariff provisions that offer firm lending and parking services.

3. Proposed Rate Schedule FLPS provides that FLPS service shall consist of (1) the receipt by Equitrans of gas, parking of gas, and return of parked quantities to Customer

[1] *See* Appendix.

(parking service), or (2) the delivery of gas to Customer and subsequent return of gas to Equitrans (lending service). Equitrans states that the firm reservation charges for Rate Schedule FLPS service will be based upon the existing Rate Schedule LPS rates in the updated Statement of Rates in Section 4.4 of its tariff. Equitrans proposes to modify the *pro forma* service agreement for Rate Schedule LPS to accommodate Rate Schedules FLPS and LPS. Equitrans also proposes to make conforming changes and references in Rate Schedule LPS and its General Terms and Conditions (GT&C) to reflect the new service.

4. Equitrans also proposes to modify several tariff provisions related to its existing LPS service. In order to clarify that it will charge the Storage Loss Retainage Factor only when incremental storage losses are incurred, Equitrans proposes to revise Section 3.2 of Rate Schedule LPS to provide that "Equitrans will not retain gas for storage loss in those instances where the transaction does not cause Equitrans to incur incremental storage losses." Equitrans contends that this change is consistent with provisions of other pipelines that do not charge retainage or fuel factors for their lending and parking services or when the transaction does not cause incremental costs.

5. Equitrans also proposes to provide both LPS and FLPS service on its Sunrise Transmission System, as well as its Mainline System, in response to potential customer demand. Equitrans further asserts that, for consistency, it proposes to adopt the Commission approved Rate Schedule LPS rates established for Mainline System for the Sunrise Transmission System.

6. Equitrans states that, in order to assist with the processing of Lending and Parking Service Agreements, it proposes to modify both the Form of Service Agreement and Exhibit related to LPS service. Currently, the parties execute both a new Service Agreement and the associated Exhibit for every lending and parking transaction. Equitrans states that, as modified, the executed Lending and Parking Service Agreement would remain in effect while the parties execute multiple Lending and Parking transactions and document such transactions within the Exhibits over the term of the agreement consistent with other Commission-approved tariff provisions.

7. Equitrans contends that the proposed Rate Schedule FLPS will utilize existing storage and transmission facilities, and therefore may be provided to the extent that Equitrans is not already obligated to provide the capacity, injection capability, and deliverability to another Customer with an existing firm service agreement. Equitrans asserts that service under Rate Schedule FLPS will have the same priority of service as other firm services pursuant to Rate Schedules NOFT, FTSS, FTS, STS-1, SS-3, 115SS, 60SS, GSS, and firm MLS. Equitrans further asserts that the proposed service will not replace the existing firm or interruptible services on the Equitrans system. Equitrans contends that FLPS service requires that Customers inject or withdraw gas up to their Maximum Quantity, and unlike firm storage service agreements, Customers using the FPLS service are not provided with injection and withdrawal rights between the injection

and withdrawal periods. Equitrans further contends that FLPS service provides Customers with the opportunity to borrow and store gas, as opposed to storage services which only allow Customers to store gas and to withdraw stored gas. Equitrans concludes that the proposed service will have no adverse effect on receipt and delivery point flexibility, nominating and scheduling priorities, allocation of capacity, or operating conditions and will benefit existing shippers by increasing liquidity and service flexibility and facilitating the movement of natural gas to meet market requirements.

Proposed Rates

8. Proposed section 4.4 provides a monthly reservation rate for FLPS service based upon the existing daily lending and parking charges in Rate Schedule LPS. Equitrans states that this rate will be assessed on the Customer's Maximum Quantity loaned or parked. In addition, there is a Storage Loss Retainage Factor, which will be an in-kind retainage factor in order to reimburse Equitrans for lost and unaccounted for gas required to provide storage service for Customers. Equitrans asserts, however, if a transaction will not cause Equitrans to incur incremental storage losses, the Storage Loss Retainage Factor will not be charged. Equitrans states that the proposed Rate Schedule LPS and FLPS rates for the Sunrise Transmission System are the same as for the Mainline System.

Request for Waivers

9. Equitrans asserts that because FLPS is a new service and the extent to which it will be utilized is not known, it is requesting a waiver of the requirement in sections 154.202(a)(1)(v-viii) and 154.204(e) of the Commission's regulations that tariff filings for a new service include an estimate of the effect on revenues and costs for the 12 months after the new service begins. Equitrans asserts that the filing does not include such an estimate because it has no actual cost or revenue experience and the Commission has previously granted such waivers.

Public Notice, Conditional Protest, and Answer

10. Public notice of the filing was issued on March 24, 2015. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2014), all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the 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. Peoples Natural Gas Company LLC, Peoples TWP LLC, and Peoples Gas WV LLC (Peoples LDCs) filed comments and a

conditional protest. On April 17, 2015, Equitrans filed an answer to the comments and conditional protest (Answer).[2]

<u>Conditional Protest</u>

11. In general, Peoples LDCs argue that Equitrans has not provided an adequate explanation of how it intends to provide its proposed FPLS service. Peoples LDCs contend that it cannot be determined if Equitrans has adequate unsubscribed capacity available to provide the service, which Equitrans must demonstrate in order to show that its proposed service will not negatively affect existing firm services. Peoples LDCs assert that the proposed FLPS service conditions are inconsistent with the service conditions approved for similar services by other pipelines, and that, by failing to adapt those same service conditions, Equitrans' proposed FLPS service may impair existing firm services. Peoples LDCs further argue that Equitrans should explain how its proposed treatment of retainage with regard to the proposed service is consistent with Commission policy. Accordingly, Peoples LDCs contend that Equitrans' proposed service conditions and rates need to be amended or further clarified and supported before the proposed tariff records can be deemed to be just and reasonable.

<u>Available Capacity to Provide the Proposed Service</u>

12. Peoples LDCs assert that Equitrans' proposal to provide service utilizing existing storage and transmission facilities to the extent that Equitrans is not already obligated to provide the capacity, injection capability and deliverability to another existing firm service customer is comparable to the circumstances in *Questar Pipeline Co.*, 99 FERC ¶ 61,129 (2002) (*Questar*) where the Commission found that Questar did not quantify the amount of capacity necessary for providing its proposed service or reflect the amount of unsubscribed capacity available to support its proposed service. Peoples LDCs further contend that Equitrans' proposal is not consistent with the Commission's requirements in *Leaf River Energy Center, LLC*, 125 FERC ¶ 61,131 (2008) (*Leaf River*), cited by Equitrans, where the Commission found that the applicant did address this issue by committing to reserve capacity and injection and withdrawal capabilities sufficient to

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[2] Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise permitted by the decisional authority. 18 C.F.R. § 385.213(a)(2) (2014). However, the Commission accepts Equitrans' Answer since it will not delay the proceeding, may assist the Commission in understanding the issues raised, and will ensure a complete record.

support the level of park and loan service provided and only provide that service to the extent it has unsubscribed capacity and gas in storage not dedicated to another service.

13. Peoples LDCs also state that Equitrans cites *Midwestern Gas Transmission Co.*, 139 FERC ¶ 61,276 (2012) (*Midwestern*), where the Commission accepted a proposal by Midwestern to provide a new firm park and loan service utilizing a portion of its available line pack and unsubscribed capacity. Peoples LDCs assert that, in that case, the Commission noted that the applicant had emphasized that the park and loan service would not adversely affect existing firm service rights and that the proposed rate schedule set forth operational criteria to determine whether a contract for the new service could be entered. Peoples LDCS further assert that Equitrans does not offer storage service on its Sunrise System, so like Midwestern, Equitrans is apparently proposing to provide its firm loan and park service on the Sunrise System with available line pack and unsubscribed firm transportation capacity. Peoples LDCs contend that this is speculation since Equitrans has not explained how it proposes to provide the services on either the Sunrise System or the Mainline System.

14. Peoples LDCs conclude that Equitrans has not made the showing that the Commission required in *Questar* and that was made in *Leaf River* that its proposed FLPS service will not affect existing firm services. Peoples LDCs, as existing firm customers using both the Mainline and Sunrise Systems, argue that Equitrans should supplement its filing with a showing that it has adequate capacity to provide the proposed services and how it intends to make that showing as it adds firm loan and park services in the future.

Proposed Rates

15. Peoples LDCs argue that it is not possible to determine whether Equitrans' proposed rate for its FLPS service is reasonable. Peoples LDCs contend that, while Equitrans states that the proposed reservation rate is based on its current interruptible lending and parking service rate converted to a reservation charge on a 100% load factor basis, Equitrans has not explained how the current interruptible lending and parking service rate is determined. Peoples LDCs assert that, in none of the cases relied upon by Equitrans was the firm lending and parking rate derived from an interruptible rate. Peoples LDCs further assert that, in *Midwestern*, the approved rate was derived from the firm transportation demand rate, and, in *Leaf River* and *Arlington Storage Co., LLC*, 125 FERC ¶ 61,306 (2008), the rates were market based.

16. Peoples LDCs contend that Equitrans should also explain in more detail the support for charging the same FLPS rate for both the Mainline and Sunrise Systems, since the Mainline System has storage facilities and the Sunrise System does not. Peoples LDCs further contend that, if FLPS service on the Sunrise System is to be provided by available line pack and unsubscribed firm transportation capacity, then Equitrans should also explain why the Sunrise System firm transportation rate is not the

proper rate from which to derive the FLPS reservation charge for the Sunrise System, consistent with *Midwestern*.

17. Peoples LDCs contend that Equitrans should also further explain and justify its proposed retainage treatment. Peoples LDCs assert that, it appears that Equitrans proposes to retain gas for the FLPS service only if FLPS gas is physically stored in its storage facilities and causes Equitrans to incur incremental storage losses. Peoples LDCs state that Equitrans, in its transmittal letter, contends that its proposal to retain gas only where the transaction causes Equitrans to incur incremental storage losses is consistent with provisions of other pipelines that do not charge retainage or fuel factors for their lending and parking services or when the transaction does not cause incremental costs, citing Dominion Transmission, Inc.'s (Dominion), Tariff section 20.4[5.2] and National Fuel Gas Supply Corp.'s (National Fuel) section 6.130[3.3 and 3.4] and section 6.140[3.3 and 3.4]. Peoples LDCs argue, however, that Dominion's section 20.4[5.2] provides something very different from Equitrans' proposal, since Dominion will retain the percentages of gas received for Market Center Services as set forth on its Tariff Record No. 10 but not retain fuel where the transaction does not cause the pipeline to use fuel. Peoples LDCs further argue that, similarly, National Fuel's tariff provides that "Transporter may from time to time identify point pair transactions where the Transportation Fuel and Company Use Retention shall be zero ("Zero Fuel Point Pair Transactions"). Zero Fuel Point Pair Transactions will be assessed the applicable Transportation LAUF Retention."

18. Peoples LDCs contend that Equitrans should recover fuel for any FLPS or LPS transaction that causes Equitrans to incur fuel costs. Peoples LDCs assert that, since any FLPS or LPS transaction that delivers gas at a point different from where it was received should have a corresponding transportation component of the transaction which will already have a retainage component, fuel would seem to be a proper component only where storage is involved in the park or loan, but Equitrans does not adequately explain what role storage plays in these transactions. Peoples LDCs further assert that this does not mean only FLPS and LPS transactions that involve storage should have gas retained. Peoples LDCs contend that since retainage recovers lost and unaccounted for gas in addition to fuel, all of the FLPS and LPS transactions should recover the lost and unaccounted for gas component of Equitrans' retainage factor.

Reporting

19. Peoples LDCs assert that, if Equitrans proposes to use unsubscribed firm transportation capacity and line pack to provide the proposed service, Commission policy requires that Equitrans not enter into a contract for FLPS unless it can satisfy certain

operational criteria.[3] Peoples LDCs further assert that Equitrans should be required to provide an operational report with each new FLPS service agreement demonstrating its satisfaction of those criteria.Furthermore, Peoples LDCs contend that, since this is a new service, Equitrans should also provide an activity report after one year of the new FLPS service to provide the Commission and interested parties actual information that can be used to monitor Equitrans' activity and revenues for the new FLPS service. Peoples LDCs further contend that this activity report should include, where appropriate, dates of service; volumes parked or loaned for each day by transaction; monthly total volumes parked and loaned; whether the shipper is an affiliate of the pipeline; the point involved; and the initial fee, completion fee, and the associated parking/lending rate charge.

<u>Answer</u>

<u>Available Capacity</u>

20. Equitrans contends that it has ample available capacity to provide the proposed service and provides supplemental information to support its position. Equitrans asserts that, currently, it has 23,329 MDth of Mainline System storage working gas capacity and, as reflected in the Index of Customers posted on its Informational Posting Service website, 19,595 MDth of Mainline System storage capacity currently subscribed to firm storage customer agreements. Equitrans further asserts that, therefore, 16% (3,734 MDth) of the total working gas capacity is available for firm service. Equitrans argues that it has ample unsubscribed firm capacity available to provide the proposed FLPS Service on both the Mainline and Sunrise Transmission Systems. Equitrans further argues that it has already included within the listed conditions that must be met for Equitrans to provide service a provision stating that "Equitrans, in its reasonable discretion, determines it has available capacity to render the service" in section 5.17[1(c)] consistent with Equitrans' other firm service rate schedules.[4] Equitrans asserts that, before it enters into any firm service agreement, Equitrans ensures that it is able to meet the requested and existing firm service requirements. Equitrans states that it will not

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[3] Peoples LDCs assert that the new FLPS service must not cause total contracted FT and FLPS capacity to exceed peak operationally available capacity on any pipeline segment unless the FLPS service will have a positive effect on the system (i.e., a park when line pack is below optimal levels, or a loan when line pack is above optimal levels); the new service must not cause total contracted firm capacity to exceed the operationally available capacity at any receipt or delivery point; and the new service must not interfere with the primary rights of any existing firm customer.

[4] Equitrans' FERC Gas Tariff, Rate Schedules FTS Section 5.2[1(a)], 115SS Section 5.4 [1(a)], and 60SS Section 5.4 [1(a)].

enter into any new firm contract, including a new FLPS Service contract, for which it is knowingly unable to provide firm service or which would hinder providing firm service under which it is already obligated.

Rates

21. Equitrans argues that its proposed rates are properly calculated. Equitrans asserts that its currently-effective interruptible LPS rate was agreed to by the participating parties and accepted by the Commission, as part of a rate case settlement in Docket Nos. RP05-164-000, RP05-05-000, RP04-203-000 and RP04-97-000. Equitrans further asserts that, pursuant to the Commission's Cost-of-Service Manual at page 40, "The Commission has had a long-standing policy that, in most cases, interruptible rates should be designed as the 100% load factor derivation of the firm transportation rates." Equitrans contends that, therefore, it is logical that an approved interruptible rate could be used to calculate a new firm rate, and that it derived the proposed FLPS Reservation Rate by converting Equitrans' Commission-accepted interruptible Lending and Parking Rate to a two-part rate with a reservation charge on a 100% load factor basis. Equitrans further contends that this method of determining firm service rates provides a just and reasonable rate, and Peoples LDCs have not shown that Equitrans' proposal is unjust or unreasonable.

22. Equitrans asserts that, as Peoples LDCs have acknowledged, the Sunrise Transmission System is integrated with the Mainline System and, as such, Equitrans can utilize Mainline System storage to provide service on a FLPS service agreement on the Sunrise Transmission System. Equitrans further asserts that the Commission has found that the interruptible transportation rates should be the same for the Mainline and Sunrise Transmission System.[5] Equitrans concludes that, therefore, it is just and reasonable for the proposed rates for lending and parking service utilizing the Sunrise Transmission System to mirror those utilized on the Mainline System.

23. Equitrans asserts that it has proposed to revise its existing tariff language regarding the application of Storage Loss Retainage Factor to lending and parking transactions to clarify that it will charge the Storage Loss Retainage Factor when Equitrans in fact incurs these costs. Equitrans contends that, because it is at risk for any under-recovered fuel or storage loss on the Mainline and Sunrise Transmission Systems, Equitrans is incentivized to charge the Storage Loss Retainage Factor when applicable to recover its costs. Equitrans asserts that, for certain lending and parking transactions for which it utilizes its storage assets and incurs incremental storage fuel and migration losses, Equitrans does and will continue to charge, the Mainline Storage Loss Retainage Factor. Equitrans further asserts that, however, the language that "… Equitrans will not

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[5] Answer at 4 (citing *Equitrans, L.P.*, 136 FERC ¶ 61,046, at P 25 (2011)).

retain gas for storage loss in those instances where the transaction does not cause Equitrans to incur incremental storage losses," in Rate Schedule LPS and proposed Rate Schedule FLPS ensures that Equitrans will not charge a lending and parking service customer a retainage fee when Equitrans is not actually incurring any of these costs. Equitrans concludes that its proposed retainage rates are just and reasonable.

Reporting

24. Equitans contends that, consistent with the Firm Transportation Transactional Reporting requirements as prescribed by NAESB WGQ Standards, all firm service agreements, including all FLPS service agreements, are and will be posted on Equitrans' Informational Posting Service website. Equitrans further contends that its proposed tariff provisions and its standard operating procedures prohibit the execution of any firm contract for which Equitrans, in its reasonable discretion, determines it would not have available capacity to render the service. Equitrans argues that it is unnecessary and burdensome for Equitrans to file an operational report for each and every FLPS Service contract executed. Equitrans further argues that Peoples LDCs do not cite to any Commission precedent to support their request to provide an operational report for each new FLPS agreement and it would be unreasonable before entering into any new firm agreement to require reports proving that pipelines have sufficient capacity to provide firm service. However, Equitrans states that it does not oppose submitting a report within 45 days after the end of the first twelve months the proposed Firm Lending and Parking Service is effective. Equitrans further states that such a report will include the following related to FLPS Contracts: dates of service; volumes parked or loaned; a monthly total of volumes parked and loaned; whether the shipper is an affiliate of Equitrans; the point(s) involved; and the associated parking/lending rate charged.

Discussion

25. The Commission accepts Equitrans' proposed tariff records for filing and suspends their effectiveness for the period set forth below. Equitrans must adequately support its filing. Peoples LDCs have raised a number of issues which warrant further examination. In addition, Equitrans has filed an Answer with detailed supporting information and a proposed modification to its original proposal, to which the parties have not had an opportunity to respond. Therefore, before we address the issues raised by Peoples LDCs, we will provide the parties with the opportunity to respond to Equitrans' Answer within twenty (20) days of the date of this order. Therefore, the Commission accepts and suspends the tariff records subject to refund and conditions and further Commission action effective September 23, 2015, or a date set forth in a subsequent order.

Suspension

26. 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.

27. The Commission's policy regarding tariff filing suspensions is that 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.[6] 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.[7] Such circumstances do not exist here with respect to the tariff records listed in the Appendix. Therefore, the Commission will exercise its discretion to suspend for the maximum period and conditionally accept and suspend, subject to refund, the proposed tariff records listed in the Appendix to be effective September 23, 2015, subject to refund and the conditions set forth in the body of this order and the ordering paragraphs below.

The Commission orders:

(A) The tariff records listed in the Appendix are accepted and suspended subject to refund and conditions and further Commission review effective September 23, 2015, or a date set forth in a subsequent order.

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[6] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five month suspension).

[7] *See Valley Gas Transmission Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension).

(B) The parties are permitted to file a response to Equitrans' Answer within twenty (20) days of the date of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

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

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