

152 FERC ¶ 61,003
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. RP15-1040-000

ORDER ACCEPTING NEGOTIATED RATE AGREEMENTS

(Issued July 1, 2015)

1. On June 1, 2015, Equitrans, L.P. (Equitrans) filed revised tariff records to reflect the addition of certain capacity release agreements to its tariff, as well as the removal of several expired negotiated rate capacity release agreements from its tariff.¹ Equitrans requests that the revised tariff records become effective June 1, 2015. Waiver of the Commission's 30-day notice requirement is granted and the referenced tariff records are accepted, effective June 1, 2015, as proposed. The Commission also orders that in the future, in the case of temporary capacity releases, when filing replacement shipper agreements that include negotiated usage and or fuel charges with the Commission, Equitrans must file a tariff record summarizing the negotiated rate and may no longer choose to file the contract itself.

I. Background

2. Equitrans states that section 6.30 of the General Terms and Conditions (GT&C) of Equitrans' tariff authorizes it to execute service agreements for transportation service at negotiated rates, pursuant to the Commission's Alternative Rate Policy Statement.² That policy statement requires that a pipeline must file all negotiated rate agreements with the

¹ See the Appendix for a list of the proposed tariff records.

² *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996) (Alternative Rate Policy Statement; *clarification granted*, 74 FERC ¶ 61,194 (1996), *order on reh'g*, 75 FERC ¶ 61,024 (1996). *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006).

Commission to become part of its tariff, or in the alternative, a tariff record summarizing the essential elements of the negotiated rate agreements, including the legal name of the shipper, the negotiated rate, the rate schedule, the receipt and delivery points, and the contract demand volume.

3. Equitrans states that it had previously submitted, and the Commission accepted, certain negotiated rate agreements that are now subject to capacity releases.³ In the instant filing, Equitrans included 20 new negotiated rate agreements with the replacement shippers of the original agreements. According to Equitrans, the negotiated usage, overrun and fuel components of the original agreements were passed through to the replacement shipper agreements that it submitted with the instant filing.⁴ Equitrans further states that the subject replacement agreements do not deviate in any material respect from the form of service agreement in its tariff. Equitrans further proposes to remove from its tariff certain replacement shipper agreements that expired on May 31, 2015.

4. Public notice of the filing was issued on June 2, 2015. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2014)), 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. No protests or adverse comments were filed.

II. Discussion

5. The Alternative Rate Policy Statement requires that when a pipeline enters into a negotiated rate service agreement with a customer, it must either file the contract or a tariff record describing the negotiated rate for acceptance by the Commission.⁵ The

³See *Equitrans, L.P.*, Docket No. RP14-279-000 (January 2, 2014) (delegated letter order).

⁴ See *Texas Eastern Transmission, LP*, 129 FERC ¶ 61,025 at PP 11-15 (2009) (*Texas Eastern*)(explaining that, while the reservation charge in a capacity release is established by the capacity release agreement between the releasing and replacement shipper, the pipeline is not required to provide a replacement shipper the same negotiated usage or fuel charge as it has provided the releasing shipper. Thus, a replacement shipper must bargain directly with the pipeline for any negotiated usage or fuel charge).

⁵ Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,241-242.

Commission has found that the disclosure of the contract terms of a negotiated rate transaction is necessary to provide transparency and to permit shippers that believe they are similarly situated with respect to a particular negotiated rate shipper to make such a determination.⁶ The Commission has held that this policy applies to the filing of a pipeline's negotiated rate agreements with replacement shippers concerning their usage and fuel charges.⁷ As noted, in accordance with its tariff and this policy, Equitrans chose to file the actual negotiated replacement shipper contracts in lieu of a tariff record summary of those agreements.

6. Because the subject agreements are temporary capacity releases with negotiated rates, the electronic version of the agreements are in the "Award Download" form required by NAESB Standard No. 5.4.26.⁸ Upon review of the Award Downloads related to Equitrans' filing, the Commission has identified several issues that contravene the purpose of filing such contracts for transparency. The Award Downloads files, which become a part of the pipeline's tariff, are extremely voluminous and contain superfluous data.⁹ In addition to the size of the Award Download files, the Award Download format is designed for electronic processing thereby making it extremely difficult to decipher or to even identify the actual negotiated rate being charged. This result renders the electronic version of the agreements ineffective as a transparency tool, and thus contrary to the very purpose for filing such agreements.

7. The purpose of the requirement in the Alternative Rate Policy Statement to disclose the details of all negotiated rate agreements by filing the contract or a summary of the essential terms was to allow the Commission to determine whether the transaction is unduly discriminatory, as well as for shippers to be able to assess the transaction to determine if they are similarly situated to the negotiated rate shipper. At the time of the implementation of the Alternative Rate Policy Statement, the Commission did not anticipate that the NAESB standard format for downloading the electronic version of negotiated replacement shipper agreements would render agreements filed in this format

⁶ *NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011, at 61,037 (1996) (*NorAm*).

⁷ *Texas Eastern*, 129 FERC ¶ 61,025 at P 21.

⁸ The Commission required NAESB Wholesale Gas Quadrant, Version 2.0, Standard No. 5.4.26 to be incorporated by reference in pipeline tariffs. *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-V, FERC Stats. & Regs. ¶ 31,332 (2012).

⁹ The 20 agreements filed by Equitrans result in nearly 600 pages of contracts to be included in Equitrans' tariff.

ineffective as tools for transparency. Accordingly, given the limited usefulness of the NAESB standard electronic format for filed negotiated rate agreements, the Commission orders that in the future, in the case of temporary capacity releases, when filing replacement shipper agreements that include negotiated usage and/or fuel charges with the Commission, Equitrans must file a tariff record summarizing the negotiated rate and may no longer choose to file the contract itself. The Commission expects tariff filings that summarize negotiated usage rates between the pipeline and the capacity release replacement shipper to include: the legal name of the Shipper, the negotiated rate, the rate schedule, the type of service, any affiliate relationship between the pipeline and the shipper and any other applicable term or condition applicable to the negotiated rate, such as receipt points, delivery points, total volume and contract terms.¹⁰

8. In addition, the Commission has approved a pipeline tariff provision providing a limited exception from the negotiated rate filing requirements for short-term capacity release agreements of 27 days or less that contain the same negotiated usage and/or fuel charge provisions as the Commission has approved for the releasing shipper.¹¹ Under that exception, the pipeline is allowed to post the essential terms of the agreement on its Informational Posting Website, in lieu of filing with the Commission. Pipelines that enter into a significant number of such short-term negotiated rate agreements with replacement shippers may wish to consider proposing similar tariff provisions.

The Commission orders:

(A) The Commission grants waiver of section 154.207 of our regulations and accepts the tariff records referenced in the Appendix effective June 1, 2015; and

(B) In the future, Equitrans must report replacement shipper agreements resulting from temporary releases, which contain negotiated usage and/or fuel charges, by

¹⁰ See *NorAm*, 77 FERC ¶ 61,011 at 61,037 (1996); *Texas Gas Transmission Corp.*, 92 FERC ¶ 61,188, at 61,649-650 (2000).

¹¹ *Gulf South Pipeline Co., LP*, 132 FERC ¶ 61,058 (2010).

filing a narrative tariff record summary of the negotiated rate as described above, and may no longer report such transactions by filing the contract itself.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Tariff records accepted effective June 1, 2015

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

<u>Section 6.1, INTERSTATE GAS SUPPLY INC - 899.0615, 3.0.0</u>	A	
<u>Section 6.2, NORTH AMERICAN POWER AND GAS LLC - 943.0615, 3.0.0</u>		A
<u>Section 6.3, UGI ENERGY SERVICES INC - 893.0615.1, 3.0.0</u>	A	
<u>Section 6.4, SNYDER BROTHERS INC - 897.0615, 3.0.0</u>	A	
<u>Section 6.5, US GAS & ELECTRIC INC DBA PENNSYLVANIA GAS&ELECTR-895.0615, 3.0.0</u>	A	
<u>Section 6.6, SFE ENERGY PENNSYLVANIA INC-1205.0615, 3.0.0</u>	A	
<u>Section 6.7, MERCURIA ENERGY GAS TRADING LLC- 1156.0615, 3.0.0</u>		A
<u>Section 6.8, SFE ENERGY PENNSYLVANIA INC- 1204.0615, 3.0.0</u>	A	
<u>Section 6.9, T&F EXPLORATION LP - 855.0615, 3.0.0</u>	A	
<u>Section 6.10, DOMINION RETAIL INC-906.0615, 3.0.0</u>	A	
<u>Section 6.11, AMBIT NORTHEAST LLC- 905.0615, 3.0.0</u>	A	
<u>Section 6.12, DIRECT ENERGY BUSINESS MARKETING LLC - 858.0615, 3.0.0</u>		
A		
<u>Section 6.13, WPX ENERGY MARKETING, LLC- 907.0615, 3.0.0</u>	A	
<u>Section 6.14, CROSS TIMBERS ENERGY SERVICES, INC- 930.0615, 3.0.0</u>		A
<u>Section 6.15, SNYDER BROTHERS INC- 896.0615, 3.0.0</u>	A	
<u>Section 6.16, DOMINION RETAIL INC- 901.0615, 3.0.0</u>	A	
<u>Section 6.17, JOHNSTOWN REGIONAL ENERGY LLC- 856.0615, 3.0.0</u>	A	
<u>Section 6.18, VOLUNTEER ENERGY SERVICES INC- 891.0615, 3.0.0</u>	A	
<u>Section 6.56, SFE ENERGY PENNSYLVANIA INC -1207.1015, 3.0.0</u>	A	
<u>Section 6.57, SFE ENERGY PENNSYLVANIA INC- 1206.1015, 2.0.0</u>	A	